

By Representative Fitzgibbon

**E2SSB 5126** - H COMM AMD

By Committee on Environment & Energy

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature  
4 finds that climate change is one of the greatest challenges facing  
5 our state and the world today, an existential crisis with major  
6 negative impacts on environmental and human health. Washington is  
7 experiencing environmental and community impacts due to climate  
8 change through increasingly devastating wildfires, flooding,  
9 droughts, rising temperatures and sea levels, and ocean  
10 acidification. Greenhouse gas emissions already in the atmosphere  
11 will increase impacts for some period of time. Actions to increase  
12 resilience of our communities, natural resource lands, and ecosystems  
13 can prevent and reduce impacts to communities and our environment and  
14 improve their ability to recover.

15 (2) In 2020, the legislature updated the state's greenhouse gas  
16 emissions limits that are to be achieved by 2030, 2040, and 2050,  
17 based on current science and emissions trends, to support local and  
18 global efforts to avoid the most significant impacts from climate  
19 change. Meeting these limits will require coordinated, comprehensive,  
20 and multisectoral implementation of policies, programs, and laws, as  
21 currently enacted systems approaches are insufficient to meet the  
22 limits.

23 (3) The legislature further finds that while climate change is a  
24 global problem, there are communities that have historically borne  
25 the disproportionate impacts of environmental burdens and that now  
26 bear the disproportionate negative impacts of climate change.  
27 Although the state has done great work in the past to highlight these  
28 environmental health disparities, beginning with senator Rosa  
29 Franklin's environmental equity study, and continuing through the  
30 work of the governor's interagency council on health disparities, the  
31 creation of the Washington environmental health disparities map, and

1 recommendations of the environmental justice task force, the state  
2 can do much more to ensure that state programs address environmental  
3 equity.

4 (4) The legislature further finds that while enacted carbon  
5 policies can be well-intended to reduce greenhouse gas emissions and  
6 provide environmental benefits to communities, the policies may not  
7 do enough to ensure environmental health disparities are reduced and  
8 environmental benefits are provided to those communities most  
9 impacted by environmental harms from greenhouse gas and air pollutant  
10 emissions.

11 (5) The legislature further finds that wildfires have become one  
12 of the largest sources of black carbon in the last five years. From  
13 2014 through 2018, wildfires in Washington state generated 39,200,000  
14 metric tons of carbon, the equivalent of more than 8,500,000 cars on  
15 the road a year. In 2015, when 1,130,000 acres burned in Washington,  
16 wildfires were the second largest source of greenhouse gas emissions  
17 releasing 17,975,112 metric tons of carbon dioxide into the  
18 atmosphere. Wildfire pollution affects all Washingtonians, but has  
19 disproportionate health effects on low-income communities,  
20 communities of color, and the most vulnerable of our population.  
21 Restoring the health of our forests and investing in wildfire  
22 prevention and preparedness will therefore contribute to improved air  
23 quality and improved public health outcomes.

24 (6) The legislature further finds that by exercising a leadership  
25 role in addressing climate change, Washington will position its  
26 economy, technology centers, financial institutions, and  
27 manufacturers to benefit from national and international efforts that  
28 must occur to reduce greenhouse gases. The legislature intends to  
29 create climate policy that recognizes the special nature of  
30 emissions-intensive, trade-exposed industries by minimizing leakage  
31 and increased life-cycle emissions associated with product imports.  
32 The legislature further finds that climate policies must be  
33 appropriately designed, in order to avoid leakage that results in net  
34 increases in global greenhouse gas emissions and increased negative  
35 impacts to those communities most impacted by environmental harms  
36 from climate change. The legislature further intends to encourage  
37 these industries to continue to innovate, find new ways to be more  
38 energy efficient, use lower carbon products, and be positioned to be  
39 global leaders in a low carbon economy.

1 (7) Under the program, the legislature intends to identify  
2 overburdened communities where the highest concentrations of criteria  
3 pollutants occur, determine the sources of those emissions and  
4 pollutants, and ensure that emissions or concentration reductions are  
5 achieved in those communities. The legislature further intends to  
6 conduct an environmental justice assessment to ensure that funds and  
7 programs created under this chapter provide direct and meaningful  
8 benefits to vulnerable populations and overburdened communities.  
9 Additionally, the legislature intends to prevent job loss and provide  
10 protective measures for workers adversely impacted by the transition  
11 to a clean energy economy through transition and assistance programs,  
12 worker-support projects, and workforce development and other  
13 activities designed to grow and expand the clean manufacturing sector  
14 in communities across Washington state. The legislature further  
15 intends to establish an environmental justice and equity advisory  
16 panel to provide recommendations for the development and  
17 implementation of the program, the distribution of funds, and the  
18 establishment of programs, activities, and projects to achieve  
19 environmental justice and environmental health goals. The legislature  
20 further intends to create and adopt community engagement plans and  
21 tribal consultation frameworks in the administration of the program  
22 to ensure equitable practices for meaningful community and federally  
23 recognized tribal involvement. Finally, the legislature intends to  
24 establish this program to contribute to a healthy environment for all  
25 of Washington's communities.

26 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
27 section apply throughout this chapter unless the context clearly  
28 requires otherwise.

29 (1) "Allowance" means an authorization to emit up to one metric  
30 ton of carbon dioxide equivalent.

31 (2) "Allowance price containment reserve" means an account  
32 maintained by the department with allowances available for sale  
33 through separate reserve auctions at predefined prices to assist in  
34 containing compliance costs for covered and opt-in entities in the  
35 event of unanticipated high costs for compliance instruments.

36 (3) "Annual allowance budget" means the total number of  
37 greenhouse gas allowances allocated for auction and distribution for  
38 one calendar year by the department.

1 (4) "Asset controlling supplier" means any entity that owns or  
2 operates interconnected electricity generating facilities or serves  
3 as an exclusive marketer for these facilities even though it does not  
4 own them, and has been designated by the department and received a  
5 department-published emissions factor for the wholesale electricity  
6 procured from its system. The department shall use a methodology  
7 consistent with the methodology used by an external greenhouse gas  
8 emissions trading program that shares the regional electricity  
9 transmission system. Electricity from asset controlling suppliers is  
10 considered a specified source of electricity.

11 (5) "Auction" means the process of selling greenhouse gas  
12 allowances by offering them up for bid, taking bids, and then  
13 distributing the allowances to winning bidders.

14 (6) "Auction floor price" means a price for allowances below  
15 which bids at auction are not eligible to be accepted.

16 (7) "Auction purchase limit" means the limit on the number of  
17 allowances one registered entity or a group of affiliated registered  
18 entities may purchase from the share of allowances sold at an  
19 auction.

20 (8) "Balancing authority" means the responsible entity that  
21 integrates resource plans ahead of time, maintains load-interchange-  
22 generation balance within a balancing authority area, and supports  
23 interconnection frequency in real time.

24 (9) "Balancing authority area" means the collection of  
25 generation, transmission, and load within the metered boundaries of a  
26 balancing authority. A balancing authority maintains load-resource  
27 balance within this area.

28 (10) "Biomass" means nonfossilized and biodegradable organic  
29 material originating from plants, animals, and microorganisms,  
30 including products, by-products, residues, and waste from  
31 agriculture, forestry, and related industries as well as the  
32 nonfossilized and biodegradable organic fractions of industrial  
33 waste, including gases and liquids recovered from the decomposition  
34 of nonfossilized and biodegradable organic material.

35 (11) "Biomass-derived fuels," "biomass fuels," or "biofuels"  
36 means fuels derived from biomass that have at least 40 percent lower  
37 greenhouse gas emissions based on a full life-cycle analysis when  
38 compared to petroleum fuels for which biofuels are capable as serving  
39 as a substitute.

1 (12) "Carbon dioxide equivalents" means a measure used to compare  
2 the emissions from various greenhouse gases based on their global  
3 warming potential.

4 (13) "Carbon dioxide removal" means deliberate human activities  
5 removing carbon dioxide from the atmosphere and durably storing it in  
6 geological, terrestrial, or ocean reservoirs, or in products. "Carbon  
7 dioxide removal" includes existing and potential anthropogenic  
8 enhancement of biological or geochemical sinks and including, but not  
9 limited to, carbon mineralization, direct air capture and storage,  
10 and carbon mineralization.

11 (14) "Climate commitment" means the process and mechanisms to  
12 ensure a coordinated and strategic approach to advancing climate  
13 resilience and environmental justice and achieving an equitable and  
14 inclusive transition to a carbon neutral economy.

15 (15) "Climate resilience" is the ongoing process of anticipating,  
16 preparing for, and adapting to changes in climate and minimizing  
17 negative impacts to our natural systems, infrastructure, and  
18 communities. For natural systems, increasing climate resilience  
19 involves restoring and increasing the health, function, and integrity  
20 of our ecosystems and improving their ability to absorb and recover  
21 from climate-affected disturbances. For communities, increasing  
22 climate resilience means enhancing their ability to understand,  
23 prevent, adapt, and recover from climate impacts to people and  
24 infrastructure.

25 (16) "Closed facility" means a facility at which the current  
26 owner or operator has elected to permanently stop production and will  
27 no longer be an emissions source.

28 (17) "Compliance instrument" means an allowance, price ceiling  
29 unit, or offset credit issued by the department or by an external  
30 greenhouse gas emissions trading program to which Washington has  
31 linked its greenhouse gas emissions cap and invest program. One  
32 compliance instrument is equal to one metric ton of carbon dioxide  
33 equivalent.

34 (18) "Compliance obligation" means the requirement to submit to  
35 the department the number of compliance instruments equivalent to a  
36 covered or opt-in entity's covered emissions during the compliance  
37 period.

38 (19) "Compliance period" means the four-year period for which the  
39 compliance obligation is calculated for covered entities.

1 (20) "Cost burden" means the impact on rates or charges to  
2 customers of electric utilities in Washington state for the  
3 incremental cost of electricity service to serve load due to the  
4 compliance cost for greenhouse gas emissions caused by the program.  
5 Cost burden includes administrative costs from the utility's  
6 participation in the program.

7 (21) "Covered emissions" means the emissions for which a covered  
8 entity has a compliance obligation under section 10 of this act.

9 (22) "Covered entity" means a person that is designated by the  
10 department as subject to sections 8 through 23 of this act.

11 (23) "Cumulative environmental health impact" has the same  
12 meaning as provided in RCW 70A.---.--- (section 2, chapter . . .,  
13 Laws of 2021 (section 2 of Engrossed Second Substitute Senate Bill  
14 No. 5141)).

15 (24) "Curtailed facility" means a facility at which the owner or  
16 operator has temporarily suspended production but for which the owner  
17 or operator maintains operating permits and retains the option to  
18 resume production if conditions become amenable.

19 (25) "Department" means the department of ecology.

20 (26) "Electricity importer" means:

21 (a) For electricity that is scheduled with a NERC e-tag to a  
22 final point of delivery into a balancing authority area located  
23 entirely within the state of Washington, the electricity importer is  
24 identified on the NERC e-tag as the purchasing-selling entity on the  
25 last segment of the tag's physical path with the point of receipt  
26 located outside the state of Washington and the point of delivery  
27 located inside the state of Washington;

28 (b) For facilities physically located outside the state of  
29 Washington with the first point of interconnection to a balancing  
30 authority area located entirely within the state of Washington when  
31 the electricity is not scheduled on a NERC e-tag, the electricity  
32 importer is the facility operator or owner;

33 (c) For electricity imported through a centralized market, the  
34 electricity importer will be defined by rule consistent with the  
35 rules required under section 10(1)(c) of this act;

36 (d) For electricity from facilities allocated to serve retail  
37 electricity customers of a multijurisdictional electric company, the  
38 electricity importer is the multijurisdictional electric company;

39 (e) If the importer identified under (a) of this subsection is a  
40 federal power marketing administration over which the state of

1 Washington does not have jurisdiction, and the federal power  
2 marketing administration has not voluntarily elected to comply with  
3 the program, then the electricity importer is the next purchasing-  
4 selling entity in the physical path on the NERC e-tag, or if no  
5 additional purchasing-selling entity over which the state of  
6 Washington has jurisdiction, then the electricity importer is the  
7 electric utility that operates the Washington transmission or  
8 distribution system, or the generation balancing authority;

9 (f) For electricity that is imported into the state by a federal  
10 power marketing administration and sold to a public body or  
11 cooperative customer or direct service industrial customer located in  
12 Washington pursuant to section 5(b) or (d) of the Pacific Northwest  
13 electric power planning and conservation act of 1980, P.L. 96-501,  
14 the electricity importer is the federal marketing administration;

15 (g) If the importer identified under (f) of this subsection has  
16 not voluntarily elected to comply with the program, then the  
17 electricity importer is the public body or cooperative customer or  
18 direct service industrial customer; or

19 (h) For electricity from facilities allocated to a consumer-owned  
20 utility inside the state of Washington from a multijurisdictional  
21 consumer-owned utility, the electricity importer is the consumer-  
22 owned utility inside the state of Washington.

23 (27) "Emissions containment reserve allowance" means a  
24 conditional allowance that is withheld from sale at an auction by the  
25 department or its agent to secure additional emissions reductions in  
26 the event prices fall below the emissions containment reserve trigger  
27 price.

28 (28) "Emissions containment reserve trigger price" means the  
29 price below which allowances will be withheld from sale by the  
30 department or its agent at an auction, as determined by the  
31 department by rule.

32 (29) "Emissions threshold" means the greenhouse gas emission  
33 level at or above which a person has a compliance obligation.

34 (30) "Environmental benefits" has the same meaning as defined in  
35 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of  
36 Engrossed Second Substitute Senate Bill No. 5141)).

37 (31) "Environmental harm" has the same meaning as defined in RCW  
38 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of  
39 Engrossed Second Substitute Senate Bill No. 5141)).

1 (32) "Environmental impacts" has the same meaning as defined in  
2 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of  
3 Engrossed Second Substitute Senate Bill No. 5141)).

4 (33) "Environmental justice" has the same meaning as defined in  
5 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of  
6 Engrossed Second Substitute Senate Bill No. 5141)).

7 (34) "Environmental justice assessment" has the same meaning as  
8 identified in RCW 70A.---.--- (section 14, chapter . . ., Laws of  
9 2021 (section 14 of Engrossed Second Substitute Senate Bill No.  
10 5141)).

11 (35) "External greenhouse gas emissions trading program" means a  
12 government program, other than Washington's program created in this  
13 chapter, that restricts greenhouse gas emissions from sources outside  
14 of Washington and that allows emissions trading.

15 (36) "Facility" means any physical property, plant, building,  
16 structure, source, or stationary equipment located on one or more  
17 contiguous or adjacent properties in actual physical contact or  
18 separated solely by a public roadway or other public right-of-way and  
19 under common ownership or common control, that emits or may emit any  
20 greenhouse gas.

21 (37) "First jurisdictional deliverer" means the owner or operator  
22 of an electric generating facility in Washington or an electricity  
23 importer.

24 (38) "General market participant" means a registered entity that  
25 is not identified as a covered entity or an opt-in entity that is  
26 registered in the program registry and intends to purchase, hold,  
27 sell, or voluntarily retire compliance instruments.

28 (39) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

29 (40) "Holding limit" means the maximum number of allowances that  
30 may be held for use or trade by a registered entity at any one time.

31 (41) "Imported electricity" means electricity generated outside  
32 the state of Washington with a final point of delivery within the  
33 state.

34 (a) "Imported electricity" includes electricity from an organized  
35 market, such as the energy imbalance market.

36 (b) "Imported electricity" includes imports from linked  
37 jurisdictions, but such imports shall be construed as having no  
38 emissions.

1 (c) Electricity from a system that is marketed by a federal power  
2 marketing administration shall be construed as "imported  
3 electricity," not electricity generated in the state of Washington.

4 (d) "Imported electricity" does not include electricity imports  
5 of unspecified electricity that are netted by exports of unspecified  
6 electricity to any jurisdiction not covered by a linked program by  
7 the same entity within the same hour.

8 (e) For a multijurisdictional electric company, "imported  
9 electricity" includes electricity from facilities and wholesale  
10 electricity purchases that contribute to a common system power pool.  
11 Where a multijurisdictional electric company has a cost allocation  
12 methodology approved by the utilities and transportation commission,  
13 the allocation of specific facilities to Washington's retail load  
14 will be in accordance with that methodology.

15 (f) For a multijurisdictional consumer-owned utility, "imported  
16 electricity" includes electricity from facilities that contribute to  
17 a common system power pool that are allocated to a consumer-owned  
18 utility inside the state of Washington pursuant to a methodology  
19 approved by the governing board of the consumer-owned utility.

20 (42) "Leakage" means a reduction in emissions of greenhouse gases  
21 within the state that is offset by a directly attributable increase  
22 in greenhouse gas emissions outside the state and outside the  
23 geography of another jurisdiction with a linkage agreement with  
24 Washington.

25 (43) "Limits" means the greenhouse gas emissions reductions  
26 required by RCW 70A.45.020.

27 (44) "Linkage" means a bilateral or multilateral decision under a  
28 linkage agreement between greenhouse gas market programs to accept  
29 compliance instruments issued by a participating jurisdiction to meet  
30 the obligations of regulated entities in a partner jurisdiction and  
31 to otherwise coordinate activities to facilitate operation of a joint  
32 market.

33 (45) "Linkage agreement" means a nonbinding agreement that  
34 connects two or more greenhouse gas market programs and articulates a  
35 mutual understanding of how the participating jurisdictions will work  
36 together to facilitate a connected greenhouse gas market.

37 (46) "Multijurisdictional consumer-owned utility" means a  
38 consumer-owned utility that provides electricity to member owners in  
39 Washington and in one or more other states in a contiguous service  
40 territory or from a common power system.

1 (47) "Multijurisdictional electric company" means an investor-  
2 owned utility that provides electricity to customers in Washington  
3 and in one or more other states in a contiguous service territory or  
4 from a common power system.

5 (48) "NERC e-tag" means North American electric reliability  
6 corporation (NERC) energy tag representing transactions on the North  
7 American bulk electricity market scheduled to flow between or across  
8 balancing authority areas.

9 (49) "Offset credit" means a tradable compliance instrument that  
10 represents an emissions reduction or emissions removal of one metric  
11 ton of carbon dioxide equivalent.

12 (50) "Offset project" means a project that reduces or removes  
13 greenhouse gases that are not covered emissions under this chapter.

14 (51) "Offset protocols" means a set of procedures and standards  
15 to quantify greenhouse gas reductions or greenhouse gas removals  
16 achieved by an offset project.

17 (52) "Overburdened community" means a geographic area identified  
18 by the department through the process established under  
19 chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill  
20 No. 5141).

21 (53) "Person" has the same meaning as defined in RCW  
22 70A.15.2200(5)(h)(iii).

23 (54) "Point of delivery" means a point on the electricity  
24 transmission or distribution system where a deliverer makes  
25 electricity available to a receiver, or available to serve load. This  
26 point may be an interconnection with another system or a substation  
27 where the transmission provider's transmission and distribution  
28 systems are connected to another system, or a distribution substation  
29 where electricity is imported into the state over a  
30 multijurisdictional retail provider's distribution system.

31 (55) "Price ceiling unit" means the units issued at a fixed price  
32 by the department for the purpose of limiting price increases and  
33 funding further investments in greenhouse gas reductions.

34 (56) "Program" means the greenhouse gas emissions cap and invest  
35 program created by and implemented pursuant to this chapter.

36 (57) "Program registry" means the data system in which covered  
37 entities, opt-in entities, and general market participants are  
38 registered and in which compliance instruments are recorded and  
39 tracked.

1 (58) "Registered entity" means a covered entity, opt-in entity,  
2 or general market participant that has completed the process for  
3 registration in the program registry.

4 (59) "Resilience" means the ability to prepare, mitigate and plan  
5 for, withstand, recover from, and more successfully adapt to adverse  
6 events and changing conditions, and reorganize in an equitable manner  
7 that results in a new and better condition.

8 (60) "Retire" means to permanently remove a compliance instrument  
9 such that the compliance instrument may never be sold, traded, or  
10 otherwise used again.

11 (61) "Specified source of electricity" or "specified source"  
12 means a facility, unit, or asset controlling supplier that is  
13 permitted to be claimed as the source of electricity delivered. The  
14 reporting entity must have either full or partial ownership in the  
15 facility or a written power contract to procure electricity generated  
16 by that facility or unit or from an asset controlling supplier at the  
17 time of entry into the transaction to procure electricity.

18 (62) "Supplier" means a supplier of fuel in Washington state as  
19 defined in RCW 70A.15.2200(5)(h)(ii).

20 (63) "Transfer" means to transfer an allowance or compliance  
21 instrument to the department, either to meet a compliance obligation  
22 or on a voluntary basis.

23 (64) "Tribal lands" has the same meaning as defined in RCW  
24 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of  
25 Engrossed Second Substitute Senate Bill No. 5141)).

26 (65) "Unspecified source of electricity" or "unspecified source"  
27 means a source of electricity that is not a specified source at the  
28 time of entry into the transaction to procure electricity.

29 (66) "Voluntary renewable reserve account" means a holding  
30 account maintained by the department from which allowances may be  
31 retired for voluntary renewable electricity generation, which is  
32 directly delivered to the state and has not and will not be sold or  
33 used to meet any other mandatory requirements in the state or any  
34 other jurisdiction, on behalf of voluntary renewable energy  
35 purchasers or end users.

36 (67)(a) "Vulnerable populations" has the same meaning as defined  
37 in RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2  
38 of Engrossed Second Substitute Senate Bill No. 5141)).

1        NEW SECTION.        **Sec. 3.**        ENVIRONMENTAL JUSTICE REVIEW. (1) To

2 ensure that the program created in sections 8 through 23 of this act  
3 achieves reductions in criteria pollutants as well as greenhouse gas  
4 emissions in overburdened communities highly impacted by air  
5 pollution, the department must:

6        (a) Identify overburdened communities, consistent with the  
7 requirements of chapter . . . , Laws of 2021 (Engrossed Second  
8 Substitute Senate Bill No. 5141);

9        (b) Deploy an air monitoring network in overburdened communities  
10 to collect sufficient air quality data for the 2025 review and  
11 subsequent reviews of criteria pollutant reductions conducted under  
12 subsection (2) of this section; and

13        (c) (i) Within the identified overburdened communities, analyze  
14 and determine which sources are the greatest contributors of criteria  
15 pollutants and develop a high priority list of significant emitters.

16        (ii) Prior to listing any entity as a high priority emitter, the  
17 department must notify that entity and share the data used to rank  
18 that entity as a high priority emitter, and provide a period of not  
19 less than 60 days for the covered entity to submit more recent data  
20 or other information relevant to the designation of that entity as a  
21 high priority emitter.

22        (2) (a) Beginning in 2025, and every two years thereafter, the  
23 department must conduct a review to determine if criteria pollutants,  
24 as well as greenhouse gas emissions, are being reduced in the  
25 overburdened communities identified under subsection (1) of this  
26 section.

27        (b) If this review finds that criteria pollutants are not being  
28 reduced in an identified overburdened community, then the department,  
29 in consultation with local air pollution control authorities, must  
30 establish air quality targets to achieve air quality consistent with  
31 neighboring communities that are not identified as overburdened;  
32 identify the sources that are the contributors of those emissions  
33 that are either increasing or not decreasing; and achieve the  
34 reduction targets through adoption of emission control strategies or  
35 other methods, and the department must:

36        (i) Adopt, along with local air pollution control authorities,  
37 stricter air quality standards, emission standards, or emissions  
38 limitations on criteria pollutants, consistent with the authority of  
39 the department provided under chapter 70A.15 RCW;

1 (ii) If a covered entity or opt-in entity is identified as a high  
2 priority emitter of criteria pollutants, and the emissions of  
3 greenhouse gases and the source of criteria pollutants are  
4 correlated, reduce offset limits as established in section 19 of this  
5 act and the allocation of allowances at no cost under section 13 of  
6 this act, if applicable, for any covered entity identified under this  
7 subsection (2)(b); or

8 (iii) Revise any linkage agreement necessary to ensure reductions  
9 of criteria pollutant emissions by any covered entity identified  
10 under this subsection (2)(b).

11 (c) Actions imposed under this section may not impose  
12 requirements on covered entities or opt-in entities that are  
13 disproportionate to their contribution to air pollution compared to  
14 other sources of criteria pollutants in the overburdened community.

15 (3)(a) The department must create and adopt a supplement to the  
16 department's community engagement plan developed pursuant to  
17 chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill  
18 No. 5141). The supplement must describe how the department will  
19 engage with overburdened communities and vulnerable populations in:

20 (i) Identifying emitters in overburdened communities; and

21 (ii) Monitoring and evaluating criteria pollutant emissions in  
22 those areas.

23 (b) The community engagement plan must include methods for  
24 outreach and communication with those who face barriers, language or  
25 otherwise, to participation.

26 NEW SECTION. **Sec. 4.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1) When  
27 allocating funds from the carbon emissions reduction account created  
28 in section 26 of this act or from the climate investment account  
29 created in section 27 of this act, or administering grants or  
30 programs funded by the accounts, agencies shall conduct an  
31 environmental justice assessment consistent with the requirements of  
32 RCW 70A.---.--- (section 14, chapter . . . , Laws of 2021 (Engrossed  
33 Second Substitute Senate Bill No. 5141)) and establish a minimum of  
34 not less than 35 percent and a goal of 40 percent of total  
35 investments that provide direct and meaningful benefits to vulnerable  
36 populations within the boundaries of overburdened communities  
37 identified under chapter . . . , Laws of 2021 (Engrossed Second  
38 Substitute Senate Bill No. 5141) through: (a) The direct reduction of  
39 environmental burdens in overburdened communities; (b) the reduction

1 of disproportionate, cumulative risk from environmental burdens,  
2 including those associated with climate change; (c) the support of  
3 community led project development, planning, and participation costs;  
4 or (d) meeting a community need identified by the community that is  
5 consistent with the intent of this chapter.

6 (2) The allocation of funding under subsection (1) of this  
7 section must adhere to the following principles, additional to the  
8 requirements of RCW 70A.---.--- (section 16, chapter . . ., Laws of  
9 2021 (Engrossed Second Substitute Senate Bill No. 5141)): (a)  
10 Benefits and programs should be directed to areas and targeted to  
11 vulnerable populations and overburdened communities to reduce  
12 statewide disparities; (b) investments and benefits should be made  
13 roughly proportional to the health disparities that a specific  
14 community experiences, with a goal of eliminating the disparities;  
15 (c) investments and programs should focus on creating environmental  
16 benefits, including eliminating health burdens, creating community  
17 and population resilience, and raising the quality of life of those  
18 in the community; and (d) efforts should be made to balance  
19 investments and benefits across the state and within counties, local  
20 jurisdictions, and unincorporated areas as appropriate to reduce  
21 disparities by location and to ensure efforts contribute to a  
22 reduction in disparities that exist based on race or ethnicity,  
23 socioeconomic status, or other factors.

24 (3) State agencies allocating funds or administering grants or  
25 programs from the climate investment account created in section 27 of  
26 this act must:

27 (a) Report annually to the environmental justice council created  
28 in RCW 70A.---.--- (section 20, chapter . . ., Laws of 2021  
29 (Engrossed Second Substitute Senate Bill No. 5141)) regarding  
30 progress toward meeting environmental justice and environmental  
31 health goals;

32 (b) Consider recommendations by the environmental justice  
33 council; and

34 (c)(i) If the agency is not a covered agency subject to the  
35 requirements of chapter . . ., Laws of 2021 (Engrossed Second  
36 Substitute Senate Bill No. 5141), create and adopt a community  
37 engagement plan to describe how it will engage with overburdened  
38 communities and vulnerable populations in allocating funds or  
39 administering grants or programs from the climate investment account.

1 (ii) The plan must include methods for outreach and communication  
2 with those who face barriers, language or otherwise, to  
3 participation.

4 NEW SECTION. **Sec. 5.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The  
5 environmental justice council created in RCW 70A.---.--- (section 20,  
6 chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill  
7 No. 5141)) must provide recommendations to the legislature, agencies,  
8 and the governor in the development and implementation of the program  
9 established in sections 8 through 23 of this act, and the programs  
10 funded from the carbon emissions reduction account created in section  
11 26 of this act and from the climate investment account created in  
12 section 27 of this act.

13 (2) In addition to the duties and authorities granted in chapter  
14 70A.--- RCW (the new chapter created in section 22, chapter . . .,  
15 Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) to  
16 the environmental justice council, the environmental justice council  
17 must:

18 (a) Provide recommendations to the legislature, agencies, and the  
19 governor in the development of:

20 (i) The program established in sections 8 through 23 of this act  
21 including, but not limited to, linkage with other jurisdictions,  
22 protocols for establishing offset projects and securing offset  
23 credits, designation of emissions-intensive and trade-exposed  
24 industries, and administration of allowances under the program; and

25 (ii) Investment plans and funding proposals for the programs  
26 funded from the climate investment account created in section 27 of  
27 this act for the purpose of providing environmental benefits and  
28 reducing environmental health disparities within overburdened  
29 communities identified under chapter 70A.--- RCW (the new chapter  
30 created in section 22, chapter . . ., Laws of 2021 (Engrossed Second  
31 Substitute Senate Bill No. 5141));

32 (b) Provide a forum to analyze policies adopted under this  
33 chapter to determine if the policies lead to improvements within  
34 overburdened communities identified under chapter 70A.--- RCW (the  
35 new chapter created in section 22, chapter . . ., Laws of 2021  
36 (Engrossed Second Substitute Senate Bill No. 5141));

37 (c) Recommend procedures and criteria for evaluating programs,  
38 activities, or projects for review;

1 (d) Recommend copollutant emissions reduction goals in  
2 overburdened communities;

3 (e) Evaluate the level of funding provided to assist vulnerable  
4 populations, low-income individuals, and impacted workers and the  
5 funding of projects and activities located within or benefiting  
6 overburdened communities;

7 (f) Recommend environmental justice and environmental health  
8 goals for programs, activities, and projects funded from the climate  
9 investment account, and review agency annual reports on outcomes and  
10 progress toward meeting these goals;

11 (g) Provide recommendations to implementing agencies for  
12 meaningful consultation with vulnerable populations, including  
13 community engagement plans under sections 3 and 4 of this act; and

14 (h) Recommend how to support public participation through  
15 capacity grants for participation.

16 (3) For the purpose of performing the duties under subsection (2)  
17 of this section, two additional tribal members are added to the  
18 council.

19 NEW SECTION. **Sec. 6.** TRIBAL CONSULTATION. (1) Agencies that  
20 allocate funding or administer grant programs appropriated from the  
21 climate investment account created in section 27 of this act must  
22 develop a consultation framework in coordination with tribal  
23 governments that includes best practices, protocols for  
24 communication, and collaboration with federally recognized tribes.  
25 Under this consultation framework, before allocating funding or  
26 administering grant programs appropriated from the climate investment  
27 account, agencies must offer consultation with federally recognized  
28 tribes on all funding decisions and programs that may impact,  
29 infringe upon, or impair the governmental efforts of federally  
30 recognized tribes to adopt or enforce their own standards governing  
31 or protecting the tribe's resources or other rights and interests in  
32 their tribal lands and lands within which a tribe or tribes possess  
33 rights reserved by treaty. The consultation is independent of any  
34 public participation process required by state law, or by a state  
35 agency, and regardless of whether the agency receives a request for  
36 consultation from a federally recognized tribe.

37 (2)(a) If any funding decision, program, project, or activity  
38 that impacts lands within which a tribe or tribes possess rights  
39 reserved by federal treaty, statute, or executive order is undertaken

1 or funded under this chapter without such consultation with a  
2 federally recognized tribe, an affected tribe may request that all  
3 further action on the decision, program, project, or activity cease  
4 until meaningful consultation with any directly impacted federally  
5 recognized tribe is completed.

6 (b) A project or activity funded in whole or in part from the  
7 account created in section 27 of this act must be paused or ceased in  
8 the event that an affected federally recognized Indian tribe or the  
9 department of archaeology and historic preservation provides timely  
10 notice of a determination to the department that the project will  
11 adversely impact cultural resources, archaeological sites, or sacred  
12 sites. A project or activity paused at the direction of the  
13 department under this subsection may not be resumed or completed  
14 unless the potentially impacted tribe provides consent to the  
15 department and the proponent of the project or activity.

16 NEW SECTION. **Sec. 7.** GOVERNANCE STRUCTURE. (1) The governor  
17 shall establish a governance structure to implement the state's  
18 climate commitment to provide accountability for achieving the  
19 state's greenhouse gas limits in RCW 70A.45.020, to establish a  
20 coordinated and strategic statewide approach to climate resilience,  
21 to build an equitable and inclusive clean energy economy, and to  
22 ensure that the government provides clear policy and requirements,  
23 financial tools, and other mechanisms to support achieving those  
24 limits.

25 (2) The governance structure for implementing the state's climate  
26 commitment must be based on the state's following principles:

27 (a) The program must be holistic and address the needs,  
28 challenges, and opportunities to meet the climate commitment.

29 (b) The program must address emission reductions from all  
30 relevant sectors and sources by ensuring that emitters are  
31 responsible for meeting targeted greenhouse gas reductions and that  
32 the government provides clear policy and requirements, financial  
33 tools, and other mechanisms to support achieving those reductions.

34 (c) The program must support an equitable transition for  
35 vulnerable populations and overburdened communities, including  
36 through early and meaningful engagement of overburdened communities  
37 and workers to ensure the program achieves equitable and just  
38 outcomes.

1 (d) The program must build increasing climate resilience for at-  
2 risk communities and ecosystems through cross-sectoral coordination,  
3 strategic planning, and cohesive policies.

4 (e) The program must apply the most current, accurate, and  
5 complete scientific and technical information available to guide the  
6 state's climate actions and strategies.

7 (3) The governance structure for implementing the state's climate  
8 commitment must include, but not be limited to, the following  
9 elements:

10 (a) A strategic plan for aligning existing law, rules, policies,  
11 programs, and plans with the state's greenhouse gas limits, to the  
12 full extent allowed under existing authority;

13 (b) Common state policies, standards, and procedures for  
14 addressing greenhouse gas emissions and climate resilience, including  
15 grant and funding programs, infrastructure investments, and planning  
16 and siting decisions;

17 (c) A process for prioritizing and coordinating funding  
18 consistent with strategic needs for greenhouse gas reductions, equity  
19 and environmental justice, and climate resilience actions;

20 (d) An updated statewide strategy for addressing climate risks  
21 and improving resilience of communities and ecosystems;

22 (e) A comprehensive community engagement plan that addresses and  
23 mitigates barriers to engagement from vulnerable populations,  
24 overburdened communities, and other historically or currently  
25 marginalized groups; and

26 (f) An analysis of gaps and conflicts in state law and programs,  
27 with recommendations for improvements to state law.

28 (4) The governor's office shall develop policy and budget  
29 recommendations to the legislature necessary to implement the state's  
30 climate commitment by December 31, 2021, in accordance with the  
31 purpose, principles, and elements in subsections (1) through (3) of  
32 this section.

33 NEW SECTION. **Sec. 8.** CAP ON GREENHOUSE GAS EMISSIONS. (1) In  
34 order to ensure that greenhouse gas emissions are reduced by covered  
35 entities consistent with the limits established in RCW 70A.45.020,  
36 the department must implement a cap on greenhouse gas emissions from  
37 covered entities and a program to track, verify, and enforce  
38 compliance through the use of compliance instruments.

39 (2) The program must consist of:

1 (a) Annual allowance budgets that limit emissions from covered  
2 entities, as provided in this section and sections 9 and 10 of this  
3 act;

4 (b) Defining those entities covered by the program, and those  
5 entities that may voluntarily opt into coverage under the program, as  
6 provided in this section and sections 9 and 10 of this act;

7 (c) Distribution of emission allowances, as provided in section  
8 12 of this act, and through the allowance price containment  
9 provisions under sections 16 and 17 of this act;

10 (d) Providing for offset credits as a method for meeting a  
11 compliance obligation, pursuant to section 19 of this act;

12 (e) Defining the compliance obligations of covered entities, as  
13 provided in section 21 of this act;

14 (f) Establishing the authority of the department to enforce the  
15 program requirements, as provided in section 22 of this act;

16 (g) Creating a climate investment account for the deposit of  
17 receipts from the distribution of emission allowances, as provided in  
18 section 27 of this act;

19 (h) Providing for the transfer of allowances and recognition of  
20 compliance instruments, including those issued by jurisdictions with  
21 which Washington has linkage agreements;

22 (i) Providing monitoring and oversight of the sale and transfer  
23 of allowances by the department; and

24 (j) Creating a price ceiling and associated mechanisms as  
25 provided in section 18 of this act.

26 (3) The department shall consider opportunities to implement the  
27 program in a manner that allows linking the state's program with  
28 those of other jurisdictions. The department must evaluate whether  
29 such linkage will provide for a more cost-effective means for covered  
30 entities to meet their compliance obligations in Washington while  
31 recognizing the special characteristics of the state's economy,  
32 communities, and industries. The department is authorized to enter  
33 into a linkage agreement with another jurisdiction after formal  
34 notice and opportunity for a public hearing, and when consistent with  
35 the requirements of section 23 of this act.

36 NEW SECTION. **Sec. 9.** PROGRAM BUDGET AND TIMELINES. (1)(a) The  
37 department shall commence the program by January 1, 2023, by  
38 determining an emissions baseline establishing the proportionate  
39 share that the total greenhouse gas emissions of covered entities for

1 the first compliance period bears to the total anthropogenic  
2 greenhouse gas emissions in the state during 2015 through 2019, based  
3 on data reported to the department under RCW 70A.15.2200 or provided  
4 as required by this chapter, as well as other relevant data. By  
5 October 1, 2022, the department shall adopt a program budget of  
6 allowances for the first compliance period of the program, calendar  
7 years 2023 through 2026, to be distributed from January 1, 2023,  
8 through December 31, 2026. If the first compliance period is delayed  
9 pursuant to section 21(7) of this act, the department shall adjust  
10 the program allowance budget to reflect a shorter first compliance  
11 period.

12 (b) By October 1, 2026, the department shall add to its emissions  
13 baseline by incorporating the proportionate share that the total  
14 greenhouse gas emissions of new covered entities in the second  
15 compliance period bear to the total anthropogenic greenhouse gas  
16 emissions in the state during 2023 through 2025. In determining the  
17 addition to the baseline, the department may exclude a year from the  
18 determination if the department identifies that year to have been an  
19 outlier due to a state of emergency. The department shall adopt a  
20 program budget of allowances for the second compliance period of the  
21 program, calendar years 2027 through 2030, that will be distributed  
22 from January 1, 2027, through December 31, 2030.

23 (c) By October 1, 2028, the department shall adopt by rule the  
24 annual program budgets of allowances for calendar years 2031 through  
25 2040.

26 (2) The program budgets of allowances must be set to achieve the  
27 share of reductions by covered entities necessary to achieve the  
28 2030, 2040, and 2050 statewide emissions limits established in RCW  
29 70A.45.020, based on data reported to the department under chapter  
30 70A.15 RCW or provided as required by this chapter. The department  
31 must adopt annual allowance budgets for the program on a calendar  
32 year basis that provide for progressively equivalent reductions year  
33 over year. An allowance distributed under the program, either  
34 directly by the department under sections 13 through 15 of this act  
35 or through auctions under section 12 of this act, expire eight years  
36 after their issuance and may be held or banked consistent with  
37 sections 12(6) and 17(1) of this act.

38 (3) The department must complete an evaluation by December 31,  
39 2027, and by December 31, 2035, of the performance of the program,  
40 including its performance in reducing greenhouse gases. If the

1 evaluation shows that adjustments to the annual budgets are necessary  
2 for covered entities to achieve their proportionate share of the 2030  
3 and 2040 emission reduction limits identified in RCW 70A.45.020, as  
4 applicable, the department shall adjust the annual budgets  
5 accordingly. The department must complete additional evaluations of  
6 the performance of the program by December 31, 2040, and by December  
7 31, 2045, and make any necessary adjustments in the annual program  
8 allowance budgets to ensure that covered entities achieve their  
9 proportionate share of the 2050 emission reduction limit identified  
10 in RCW 70A.45.020. Nothing in this subsection precludes the  
11 department from making additional adjustments to annual program  
12 allowance budgets as necessary to ensure successful achievement of  
13 the proportionate emission reduction limits by covered entities. The  
14 department shall determine and make public the circumstances,  
15 metrics, and processes that would initiate the public consideration  
16 of additional program allowance budget adjustments to ensure  
17 successful achievement of the emission reduction limits.

18 (4) Data reported to the department under RCW 70A.15.2200 or  
19 provided as required by this chapter for 2015 through 2019 is deemed  
20 sufficient for the purpose of adopting annual program budgets and  
21 serving as the baseline by which covered entities demonstrate  
22 compliance under the first compliance period of the program. Data  
23 reported to the department under RCW 70A.15.2200 or provided as  
24 required by this chapter for 2023 through 2025 is deemed sufficient  
25 for adopting annual program budgets and serving as the baseline by  
26 which covered entities demonstrate compliance under the second  
27 compliance period of the program.

28 NEW SECTION. **Sec. 10.** PROGRAM COVERAGE. (1) A person is a  
29 covered entity as of the beginning of the first compliance period and  
30 all subsequent compliance periods if the person reported emissions  
31 under RCW 70A.15.2200 for any calendar year from 2015 through 2019,  
32 or if additional data provided as required by this chapter indicates  
33 that emissions for any calendar year from 2015 through 2019 equaled  
34 or exceeded any of the following thresholds, or if the person is a  
35 first jurisdictional deliverer and imports electricity into the state  
36 during the compliance period:

37 (a) Where the person operates a facility and the facility's  
38 emissions equal or exceed 25,000 metric tons of carbon dioxide  
39 equivalent;

1 (b) Where the person is a first jurisdictional deliverer and  
2 generates electricity in the state and emissions associated with this  
3 generation equals or exceeds 25,000 metric tons of carbon dioxide  
4 equivalent;

5 (c) Where the person is a first jurisdictional deliverer  
6 importing electricity into the state from a specified source whose  
7 total annual emissions equals or exceeds 25,000 metric tons of carbon  
8 dioxide equivalent or from an unspecified source. In consultation  
9 with any jurisdiction that is linked to the program created by this  
10 chapter, by October 1, 2026, the department, in consultation with the  
11 department of commerce and the utilities and transportation  
12 commission, shall adopt a methodology for addressing imported  
13 electricity associated with a centralized electricity market;

14 (d) Where the person is a supplier of fossil fuel other than  
15 natural gas and from that fuel 25,000 metric tons or more of carbon  
16 dioxide equivalent emissions would result from the full combustion or  
17 oxidation; and

18 (e)(i) Where the person supplies natural gas in amounts that  
19 would result in exceeding 25,000 metric tons of carbon dioxide  
20 equivalent emissions if fully combusted or oxidized, excluding the  
21 amounts: (A) Supplied to covered entities under (a) through (d) of  
22 this subsection; and (B) delivered to opt-in entities;

23 (ii) Where the person who is not a natural gas company and has a  
24 tariff with a natural gas company to deliver to an end-use customer  
25 in the state in amounts that would result in exceeding 25,000 metric  
26 tons of carbon dioxide equivalent emissions if fully combusted or  
27 oxidized, excluding the amounts: (A) Supplied to covered entities  
28 under (a) through (d) of this subsection or subsection (2)(a) of this  
29 section; and (B) the amounts delivered to opt-in entities;

30 (iii) Where the person is an end-use customer in the state who  
31 directly purchases natural gas from a person that is not a natural  
32 gas company and has the natural gas delivered through an interstate  
33 pipeline to a distribution system owned by the purchaser in amounts  
34 that would result in exceeding 25,000 metric tons of carbon dioxide  
35 equivalent emissions if fully combusted or oxidized, excluding the  
36 amounts: (A) Supplied to covered entities under (a) through (d) of  
37 this subsection; and (B) delivered to opt-in entities.

38 (2) A person is a covered entity as of the beginning of the  
39 second compliance period and all subsequent compliance periods if the  
40 person reported emissions under RCW 70A.15.2200 or provided emissions

1 data as required by this chapter for any calendar year from 2023  
2 through 2025, where the person operates a waste to energy facility  
3 utilized by a county and city solid waste management program and the  
4 facility's emissions equal or exceed 25,000 metric tons of carbon  
5 dioxide equivalent.

6 (3) A person is a covered entity beginning January 1, 2031, and  
7 all subsequent compliance periods if the person reported emissions  
8 under RCW 70A.15.2200 or provided emissions data as required by this  
9 chapter for any calendar year from 2027 through 2029, where the  
10 person operates a landfill utilized by a county and city solid waste  
11 management program and the facility's emissions equal or exceed  
12 25,000 metric tons of carbon dioxide equivalent.

13 (4) When a covered entity reports, during a compliance period,  
14 emissions from a facility under RCW 70A.15.2200 that are below the  
15 thresholds specified in subsection (1) or (2) of this section, the  
16 covered entity continues to have a compliance obligation through the  
17 current compliance period. When a covered entity reports emissions  
18 below the threshold for each year during an entire compliance period,  
19 or has ceased all processes at the facility requiring reporting under  
20 RCW 70A.15.2200, the entity is no longer a covered entity as of the  
21 beginning of the subsequent compliance period unless the department  
22 provides notice at least 12 months before the end of the compliance  
23 period that the facility's emissions were within 10 percent of the  
24 threshold and that the person will continue to be designated as a  
25 covered entity in order to ensure equity among all covered entities.  
26 Whenever a covered entity ceases to be a covered entity, the  
27 department shall notify the legislature of the name of the entity and  
28 the reason the entity is no longer a covered entity.

29 (5) For types of emission sources described in subsection (1) of  
30 this section that begin or modify operation after January 1, 2023,  
31 and types of emission sources described in subsection (2) of this  
32 section that begin or modify operation after 2027, coverage under the  
33 program starts in the calendar year in which emissions from the  
34 source exceed the applicable thresholds in subsection (1) or (2) of  
35 this section, or upon formal notice from the department that the  
36 source is expected to exceed the applicable emissions threshold,  
37 whichever happens first. Sources meeting these conditions are  
38 required to transfer their first allowances on the first transfer  
39 deadline of the year following the year in which their emissions were  
40 equal to or exceeded the emissions threshold.

1 (6) For emission sources described in subsection (1) of this  
2 section that are in operation or otherwise active between 2015 and  
3 2019 but were not required to report emissions for those years under  
4 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,  
5 coverage under the program starts in the calendar year following the  
6 year in which emissions from the source exceed the applicable  
7 thresholds in subsection (1) of this section as reported pursuant to  
8 RCW 70A.15.2200 or provided as required by this chapter, or upon  
9 formal notice from the department that the source is expected to  
10 exceed the applicable emissions threshold for the first year that  
11 source is required to report emissions, whichever happens first.  
12 Sources meeting these criteria are required to transfer their first  
13 allowances on the first transfer deadline of the year following the  
14 year in which their emissions, as reported under RCW 70A.15.2200 or  
15 provided as required by this chapter, were equal to or exceeded the  
16 emissions threshold.

17 (7) The following emissions are exempt from coverage in the  
18 program, regardless of the emissions reported under RCW 70A.15.2200  
19 or provided as required by this chapter:

20 (a) Emissions from the combustion of aviation fuels;

21 (b) Emissions from watercraft fuels supplied in Washington that  
22 are combusted outside of Washington;

23 (c) Emissions from a coal-fired electric generation facility  
24 exempted from additional greenhouse gas limitations, requirements, or  
25 performance standards under RCW 80.80.110;

26 (d) Carbon dioxide emissions from the combustion of biomass or  
27 biofuels; and

28 (e) Emissions from facilities with North American industry  
29 classification system code 92811 (national security).

30 (8) The department shall not require multiple covered entities to  
31 have a compliance obligation for the same emissions. The department  
32 may by rule authorize refineries, fuel suppliers, facilities using  
33 natural gas, and natural gas local distribution companies to provide  
34 by agreement for the assumption of the compliance obligation for fuel  
35 or natural gas supplied and combusted in the state. The department  
36 must be notified of such an agreement at least 12 months prior to the  
37 compliance obligation period for which the agreement is applicable.

38 (9) (a) The legislature intends to promote a growing and  
39 sustainable economy and to avoid leakage of emissions from  
40 manufacturing to other locations. The legislature further intends to

1 see innovative new businesses locate and grow in Washington that  
2 contribute to Washington's prosperity and environmental objectives.

3 (b) Consistent with the intent of the legislature to avoid the  
4 leakage of emissions to other jurisdictions, in achieving the state's  
5 greenhouse gas limits in RCW 70A.45.020, the state shall pursue the  
6 limits in a manner that recognizes that the siting and placement of  
7 new best-in-class facilities that provide for the displacement of  
8 more carbon intensive processes is in the economic and environmental  
9 interests of the state of Washington.

10 (c) For new or expanded facilities that require review under  
11 chapter 43.21C RCW and which would result in annual greenhouse gas  
12 emissions in excess of 25,000 metric tons per year, the department  
13 must evaluate the net cumulative greenhouse gas emissions of the  
14 facility, attributing any net displacement of global emissions  
15 resulting from the project in the department's decision making. The  
16 department may adopt rules to determine how to evaluate net  
17 cumulative emissions reductions.

18 (d) The limits in RCW 70A.45.020 or greenhouse gas emissions that  
19 are addressed in this chapter may not be the basis for denial of a  
20 permit application or for judicial review of the grant of a permit  
21 for a new or expanded emissions-intensive and trade-exposed facility.

22 (e) Compliance with the requirements of this chapter is the only  
23 mitigation for greenhouse gases that can be required by any state  
24 agency, city, town, county, township, other subdivision, or municipal  
25 corporation of the state from these facilities.

26 (f) Inclusion as a covered or an opt-in entity under this chapter  
27 constitutes adequate mitigation of any significant adverse impacts  
28 with respect to greenhouse gases for a facility subject to the  
29 requirements of chapter 43.21C RCW.

30 NEW SECTION. **Sec. 11.** REQUIREMENTS. (1) All covered entities  
31 must register to participate in the program, following procedures  
32 adopted by the department by rule.

33 (2) Entities registering to participate in the program must  
34 describe any direct or indirect affiliation with other registered  
35 entities.

36 (3) A person responsible for greenhouse gas emissions that is not  
37 a covered entity may voluntarily participate in the program by  
38 registering as an opt-in entity. An opt-in entity must satisfy the  
39 same registration requirements as covered entities. Once registered,

1 an opt-in entity is allowed to participate as a covered entity in  
2 auctions and must assume the same compliance obligation to transfer  
3 compliance instruments equal to their emissions at the appointed  
4 transfer dates. An opt-in entity may opt out of the program at the  
5 end of any compliance period by providing written notice to the  
6 department at least six months prior to the end of the compliance  
7 period. The opt-in entity continues to have a compliance obligation  
8 through the current compliance period. An opt-in entity is not  
9 eligible to receive allowances directly distributed under section 13,  
10 14, or 15 of this act.

11 (4) A person that is not covered by the program and is not a  
12 covered entity or opt-in entity may voluntarily participate in the  
13 program as a general market participant. General market participants  
14 must meet all applicable registration requirements specified by rule.

15 (5) Federally recognized tribes and federal agencies may elect to  
16 participate in the program as opt-in entities or general market  
17 participants.

18 (6) The department shall use a secure, online electronic tracking  
19 system to: Register entities in the state program; issue compliance  
20 instruments; track ownership of compliance instruments; enable and  
21 record compliance instrument transfers; facilitate program  
22 compliance; and support market oversight.

23 (7) The department must use an electronic tracking system that  
24 allows two accounts to each covered or opt-in entity:

25 (a) A compliance account where the compliance instruments are  
26 transferred to the department for retirement. Compliance instruments  
27 in compliance accounts may not be sold, traded, or otherwise provided  
28 to another account or person.

29 (b) A holding account that is used when a registered entity is  
30 interested in trading allowances. Allowances in holding accounts may  
31 be bought, sold, transferred to another registered entity, or traded.  
32 The amount of allowances a registered entity may have in its holding  
33 account is constrained by the holding limit as determined by the  
34 department by rule. Information about the contents of each holding  
35 account, including but not limited to the number of allowances in the  
36 account, must be displayed on a regularly maintained and searchable  
37 public website established and updated by the department.

38 (8) Registered general market participants are each allowed an  
39 account, to hold, trade, sell, or transfer allowances.

1 (9) The department shall maintain an account for the purpose of  
2 retiring allowances transferred by registered entities and from the  
3 voluntary renewable reserve account.

4 (10) The department shall maintain a public roster of all covered  
5 entities, opt-in entities, and general market participants on the  
6 department's public website.

7 NEW SECTION. **Sec. 12.** AUCTIONS OF ALLOWANCES. (1) Except as  
8 provided in sections 13, 14, and 15 of this act, the department shall  
9 distribute allowances through auctions as provided in this section  
10 and in rules adopted by the department to implement these sections.  
11 An allowance is not a property right.

12 (2) (a) The department shall hold a maximum of four auctions  
13 annually, plus any necessary reserve auctions. An auction may include  
14 allowances from the annual allowance budget of the current year and  
15 allowances from the annual allowance budgets from prior years that  
16 remain to be distributed.

17 (b) The department must make future vintage allowances available  
18 through parallel auctions at least twice annually in addition to the  
19 auctions through which current vintage allowances are exclusively  
20 offered under (a) of this subsection.

21 (3) The department shall engage a qualified, independent  
22 contractor to run the auctions. The department shall also engage a  
23 qualified financial services administrator to hold the bid  
24 guarantees, evaluate bid guarantees, and inform the department of the  
25 value of bid guarantees once the bids are accepted.

26 (4) Auctions are open to covered entities, opt-in entities, and  
27 general market participants that are registered entities in good  
28 standing. The department shall adopt by rule the requirements for a  
29 registered entity to register and participate in a given auction.

30 (a) Registered entities intending to participate in an auction  
31 must submit an application to participate at least 30 days prior to  
32 the auction. The application must include the documentation required  
33 for review and approval by the department. A registered entity is  
34 eligible to participate only after receiving a notice of approval by  
35 the department.

36 (b) Each registered entity that elects to participate in the  
37 auction must have a different representative. Only a representative  
38 with an approved auction account is authorized to access the auction  
39 platform to submit an application or confirm the intent to bid for

1 the registered entity, submit bids on behalf of the registered entity  
2 during the bidding window, or to download reports specific to the  
3 auction.

4 (5) The department may require a bid guarantee, payable to the  
5 financial services administrator, in an amount greater than or equal  
6 to the sum of the maximum value of the bids to be submitted by the  
7 registered entity.

8 (6) To protect the integrity of the auctions, a registered entity  
9 or group of registered entities with a direct corporate association  
10 are subject to auction purchase and holding limits. The department  
11 may impose additional limits if it deems necessary to protect the  
12 integrity and functioning of the auctions:

13 (a) A covered entity or an opt-in entity may not buy more than 10  
14 percent of the allowances offered during a single auction;

15 (b) A general market participant may not buy more than four  
16 percent of the allowances offered during a single auction and may not  
17 in aggregate own more than 10 percent of total allowances to be  
18 issued in a calendar year;

19 (c) No registered entity may buy more than the entity's bid  
20 guarantee; and

21 (d) No registered entity may buy allowances that would exceed the  
22 entity's holding limit at the time of the auction.

23 (7)(a) For fiscal year 2023, upon completion and verification of  
24 the auction results, the financial services administrator shall  
25 notify winning bidders and transfer the auction proceeds to the state  
26 treasurer for deposit as follows: (i) \$127,341,000 must be deposited  
27 into the carbon emissions reduction account created in section 26 of  
28 this act; and (ii) the remaining auction proceeds to the climate  
29 investment account created in section 27 of this act.

30 (b) For fiscal year 2024, upon completion and verification of the  
31 auction results, the financial services administrator shall notify  
32 winning bidders and transfer the auction proceeds to the state  
33 treasurer for deposit as follows: (i) \$356,697,000 must be deposited  
34 into the carbon emissions reduction account created in section 26 of  
35 this act; and (ii) the remaining auction proceeds to the climate  
36 investment account created in section 27 of this act.

37 (c) For fiscal year 2025, upon completion and verification of the  
38 auction results, the financial services administrator shall notify  
39 winning bidders and transfer the auction proceeds to the state  
40 treasurer for deposit as follows: (i) \$366,558,000 must be deposited

1 into the carbon emissions reduction account created in section 26 of  
2 this act; and (ii) the remaining auction proceeds to the climate  
3 investment account created in section 27 of this act.

4 (d) For fiscal years 2026 through 2037, upon completion and  
5 verification of the auction results, the financial services  
6 administrator shall notify winning bidders and transfer the auction  
7 proceeds to the state treasurer for deposit as follows: (i)  
8 \$359,117,000 per year must be deposited into the carbon emissions  
9 reduction account created in section 26 of this act; and (ii) the  
10 remaining auction proceeds to the climate investment account created  
11 in section 27 of this act.

12 (e) The deposits into the forward flexible account pursuant to  
13 (a) through (d) of this subsection must not exceed \$5,200,000,000  
14 over the first 16 years and any remaining auction proceeds must be  
15 deposited into the climate investment account created in section 27  
16 of this act. The deposits into the forward flexible account pursuant  
17 to (a) through (d) of this subsection must be prorated equally from  
18 the proceeds of each of the auctions occurring during each fiscal  
19 year.

20 (f) For fiscal year 2038 and each year thereafter, upon  
21 completion and verification of the auction results, the financial  
22 services administrator shall notify winning bidders and transfer the  
23 auction proceeds to the state treasurer for deposit as follows: (i)  
24 50 percent of the auction proceeds to the carbon emissions reduction  
25 account created in section 26 of this act; and (ii) the remaining  
26 auction proceeds to the climate investment account created in section  
27 of this act.

28 (8) The department shall adopt by rule provisions to guard  
29 against bidder collusion and minimize the potential for market  
30 manipulation. A registered entity may not release or disclose any  
31 bidding information including: Intent to participate or refrain from  
32 participation; auction approval status; intent to bid; bidding  
33 strategy; bid price or bid quantity; or information on the bid  
34 guarantee provided to the financial services administrator. The  
35 department may cancel or restrict a previously approved auction  
36 participation application or reject a new application if the  
37 department determines that a registered entity has:

38 (a) Provided false or misleading facts;

39 (b) Withheld material information that could influence a decision  
40 by the department;

1 (c) Violated any part of the auction rules;  
2 (d) Violated registration requirements; or  
3 (e) Violated any of the rules regarding the conduct of the  
4 auction.

5 (9) Any cancellation or restriction approved by the department  
6 under subsection (8) of this section may be permanent or for a  
7 specified number of auctions and the cancellation or restriction  
8 imposed is not exclusive and is in addition to the remedies that may  
9 be available pursuant to chapter 19.86 RCW or other state or federal  
10 laws, if applicable.

11 (10) The department shall design allowance auctions so as to  
12 allow, to the maximum extent practicable, linking with external  
13 greenhouse gas emissions trading programs in other jurisdictions and  
14 to facilitate the transfer of allowances when the state's program has  
15 entered into a linkage agreement with other external greenhouse gas  
16 emissions trading programs. The department may conduct auctions  
17 jointly with jurisdictions with which it has entered into a linkage  
18 agreement.

19 (11) The department shall include a voluntary renewable reserve  
20 account.

21 NEW SECTION. **Sec. 13.** ALLOCATION OF ALLOWANCES TO EMISSIONS-  
22 INTENSIVE, TRADE-EXPOSED INDUSTRIES. (1) Facilities owned or operated  
23 by a covered entity must receive an allocation of allowances for the  
24 covered emissions at those facilities under this subsection at no  
25 cost if the operations of the facility are classified as emissions-  
26 intensive and trade-exposed, as determined by being engaged in one or  
27 more of the processes described by the following industry  
28 descriptions and codes in the North American industry classification  
29 system:

30 (a) Metals manufacturing, including iron and steel making,  
31 ferroalloy and primary metals manufacturing, secondary aluminum  
32 smelting and alloying, aluminum sheet, plate, and foil manufacturing,  
33 and smelting, refining, and alloying of other nonferrous metals,  
34 North American industry classification system codes beginning with  
35 331;

36 (b) Paper manufacturing, including pulp mills, paper mills, and  
37 paperboard milling, North American industry classification system  
38 codes beginning with 322;

1 (c) Aerospace product and parts manufacturing, North American  
2 industry classification system codes beginning with 3364;

3 (d) Wood products manufacturing, North American industry  
4 classification system codes beginning with 321;

5 (e) Nonmetallic mineral manufacturing, including glass container  
6 manufacturing, North American industry classification system codes  
7 beginning with 327;

8 (f) Chemical manufacturing, North American industry  
9 classification system codes beginning with 325;

10 (g) Computer and electronic product manufacturing, including  
11 semiconductor and related device manufacturing, North American  
12 industry classification system codes beginning with 334;

13 (h) Food manufacturing, North American industry classification  
14 system codes beginning with 311;

15 (i) Cement manufacturing, North American industry classification  
16 system code 327310;

17 (j) Petroleum refining, North American industry classification  
18 system code 324110;

19 (k) Asphalt paving mixtures and block manufacturing from refined  
20 petroleum, North American industry classification system code 324121;

21 (l) Asphalt single and coating manufacturing from refined  
22 petroleum, North American industry classification system code 324122;  
23 and

24 (m) All other petroleum and coal products manufacturing from  
25 refined petroleum, North American industry classification system code  
26 324199.

27 (2) By July 1, 2022, the department must adopt by rule objective  
28 criteria for both emissions' intensity and trade exposure for the  
29 purpose of identifying emissions-intensive, trade-exposed  
30 manufacturing businesses during the second compliance period of the  
31 program and subsequent compliance periods. A facility covered by  
32 subsection (1)(a) through (m) of this section is considered an  
33 emissions-intensive, trade-exposed facility and is eligible for  
34 allocation of no cost allowances as described in this section. In  
35 addition, any covered party that is a manufacturing business that can  
36 demonstrate to the department that it meets the objective criteria  
37 adopted by rule is also eligible for treatment as emissions-  
38 intensive, trade-exposed and is eligible for allocation of no cost  
39 allowances as described in this section.

1 (3) (a) For all compliance periods prior to December 31, 2034, the  
2 annual allocation of allowances for direct distribution to a facility  
3 identified as emissions-intensive and trade-exposed must be equal to  
4 the facility's proportional obligation of the program budget under  
5 section 9 of this act, multiplied by 100 percent.

6 (b) The department shall by rule provide for owners or operators  
7 of emissions-intensive and trade-exposed facilities to apply and  
8 receive from the department an adjustment to the allocation for  
9 direct distribution of allowances based on a facility-specific carbon  
10 intensity benchmark as calculated in this subsection. If the  
11 department determines that the net quantity of no cost allowances  
12 awarded pursuant to (a) of this subsection is lower than when using  
13 the facility-specific carbon intensity benchmark, the department  
14 shall award additional no cost allowances up to the quantity of  
15 allowances resulting from using the facility-specific carbon  
16 intensity benchmark. The department shall adjust the no cost  
17 allocation of allowances and credits to an emissions-intensive and  
18 trade-exposed facility to avoid duplication with any no cost  
19 allowances transferred pursuant to sections 14 and 15 of this act, if  
20 applicable.

21 (i) For the purpose of this section, "carbon intensity" means the  
22 amount of carbon dioxide equivalent emissions from a facility in  
23 metric tons divided by the facility specific measure of production  
24 including, but not limited to, units of product manufactured or sold,  
25 over the same time interval.

26 (ii) If an emissions-intensive and trade-exposed facility is not  
27 able to feasibly determine a carbon intensity benchmark based on its  
28 unique circumstances, the entity may elect to use a mass-based  
29 baseline that does not vary based on changes in production volumes.  
30 For each year during the first four-year compliance period that  
31 begins January 1, 2023, these facilities must be awarded no cost  
32 allowances equal to 100 percent of the facility's mass-based  
33 baseline. For each year during the second four-year compliance period  
34 that begins January 1, 2027, these facilities must be awarded no cost  
35 allowances equal to 97 percent of the facility's mass-based baseline.  
36 For each year during the third compliance period that begins January  
37 1, 2031, these facilities must be awarded no cost allowances equal to  
38 94 percent of the facility's mass-based baseline. Except as provided  
39 in (b) (iii) of this subsection, if a facility elects to use a mass-

1 based baseline, it may not later convert to a carbon intensity  
2 benchmark during the first three compliance periods.

3 (iii) A facility with a North American industry classification  
4 system code beginning with 3364 that is utilizing a mass-based  
5 baseline in (b)(ii) of this subsection must receive an additional no  
6 cost allowance allocation under this section in order to accommodate  
7 an increase in production that increases its emissions above the  
8 baseline on a basis equivalent in principle to those awarded to  
9 entities utilizing a carbon intensity benchmark pursuant to this  
10 subsection (3)(b). The department shall establish methods to award,  
11 for any annual period, additional no cost allowance allocations under  
12 this section and, if appropriate based on projected production, to  
13 achieve a similar ongoing result through the adjustment of the  
14 facility's mass-based baseline. An eligible facility under this  
15 subsection that has elected to use a mass-based baseline may not  
16 convert to a carbon intensity benchmark until the next compliance  
17 period.

18 (c)(i) By April 1, 2022, the department must convene a work group  
19 of the emissions-intensive, trade-exposed facilities defined in this  
20 section, and their affiliated trade associations, and independent  
21 experts in emissions regulation, industrial practices, or other  
22 related fields.

23 (ii) By July 31, 2022, the work group shall recommend to the  
24 department procedures for calculating carbon intensity benchmarks.  
25 The carbon intensity benchmark must be based upon data from 2015  
26 through 2019 for each emissions-intensive, trade-exposed facility,  
27 unless an emissions-intensive, trade-exposed facility can demonstrate  
28 to the department that there have been abnormal periods of operation  
29 that materially impacted the facility and the baseline period should  
30 be expanded to include years prior to 2015.

31 (iii) By September 15, 2022, each emissions-intensive, trade-  
32 exposed facility shall submit its carbon intensity benchmark for the  
33 first compliance period to the department. The calculation must be  
34 consistent with procedures established by the work group and  
35 recommended to the department.

36 (iv) By November 15, 2022, the department shall review and  
37 approve each emissions-intensive, trade-exposed facility baseline  
38 carbon intensity benchmark.

39 (d) For each year in the first four-year compliance period that  
40 begins January 1, 2023, each emissions-intensive, trade-exposed

1 facility will calculate its facility-specific carbon intensity  
2 benchmark by its actual production.

3 (e) (i) For the second four-year compliance period that begins  
4 January 1, 2027, the second period benchmark for each emissions-  
5 intensive, trade-exposed facility is three percent below the lower of  
6 the first period benchmark or the 2015-2019 benchmark.

7 (ii) For the third four-year compliance period that begins  
8 January 1, 2031, the third period benchmark for each emissions-  
9 intensive, trade-exposed facility is three percent lower than the  
10 second period benchmark.

11 (f) (i) Prior to the beginning of either the second or third  
12 compliance periods, an emissions-intensive, trade-exposed facility  
13 may make an upward adjustment in the next compliance period's  
14 benchmark based on a demonstration to the department that additional  
15 reductions in carbon intensity or mass emissions are not technically  
16 or economically feasible. An emissions-intensive, trade-exposed  
17 facility may base its upward adjustment in the next compliance period  
18 on the facility's best available technology analysis. The department  
19 shall by rule provide for emissions-intensive, trade-exposed  
20 facilities to apply to the department for an adjustment to the  
21 allocation for direct distribution of no cost allowances based on its  
22 facility-specific carbon intensity benchmark or mass emissions  
23 baseline. The department shall make adjustments based on:

24 (A) A significant change in the emissions use or emissions  
25 attributable to the manufacture of an individual good or goods in  
26 this state by an emissions-intensive, trade-exposed facility based on  
27 a finding by the department that an adjustment is necessary to  
28 accommodate for changes in the manufacturing process that have a  
29 material impact on emissions;

30 (B) Significant changes to an emissions-intensive, trade-exposed  
31 facility's external competitive environment that result in a  
32 significant increase in leakage risk; or

33 (C) Abnormal operating periods when an emissions-intensive,  
34 trade-exposed facility's carbon intensity has been materially  
35 affected so that these abnormal operating periods are either excluded  
36 or otherwise considered in the establishment of the compliance period  
37 carbon intensity benchmarks.

38 (ii) For the purpose of this section, "best available technology"  
39 means a greenhouse gas emissions limitation determined by the  
40 department on a case-by-case basis taking into account the fuels,

1 processes, equipment, and technology used by facilities to produce  
2 goods of comparable type, quantity, and quality, that will most  
3 effectively reduce those greenhouse gas emissions for which the  
4 source has a compliance obligation. Best available technology must be  
5 technically feasible, commercially available, economically viable,  
6 not create excessive environmental impacts, and be compliant with all  
7 applicable laws while not changing the characteristics of the good  
8 being manufactured.

9 (4) (a) Beginning January 1, 2035, and each year thereafter, the  
10 annual allocation of no cost allowances for direct distribution to  
11 facilities identified as emissions-intensive and trade-exposed must  
12 be reduced by an equal amount each year between 2035 and 2050 such  
13 that in 2050 the facility's proportionate share of the allowance  
14 budget is equal to the proportionate share in 2035. The annual  
15 allocation beginning in 2035 must decline from the average of the  
16 facility's annual allocation of no cost allowances from 2031 through  
17 2034. If the emissions-intensive, trade-exposed facility can  
18 demonstrate that there have been abnormal periods of operation that  
19 materially impacted the facility, then the baseline period must be  
20 expanded to include years prior to 2031. The department shall provide  
21 a recommendation to the legislature for the adoption of an annual  
22 allocation for a covered facility for its process emissions, separate  
23 from emissions associated with energy or heat production, based on a  
24 best available technology limitation.

25 (b) By December 1, 2030, the department shall provide a report to  
26 the appropriate committees of the senate and house of representatives  
27 that describes alternative methods for determining the amount and a  
28 schedule of allowances to be provided to facilities owned or operated  
29 by each covered entity designated as an emissions-intensive, trade-  
30 exposed facility. The report must include a review of global best  
31 practices in ensuring against emissions leakage and economic harm to  
32 businesses in carbon pricing programs and describe alternative  
33 methods of emissions performance benchmarking and mass-based  
34 allocation of no cost allowances. In developing the report, the  
35 department shall form an advisory group that includes representatives  
36 of the manufacturers listed in subsection (1) of this section.

37 (5) If the actual emissions of an emissions-intensive, trade-  
38 exposed facility exceed the facility's no cost allowances assigned  
39 for that compliance period, it must acquire additional compliance  
40 instruments such that the total compliance instruments transferred to

1 its compliance account consistent with section 21 of this act equals  
2 emissions during the compliance period. The department shall limit  
3 the use of offset credits for compliance by an emissions-intensive,  
4 trade-exposed facility, such that the quantity of no cost allowances  
5 plus the provision of offset credits does not exceed 100 percent of  
6 the facility's total compliance obligation over a compliance period.

7 (6) The department must withhold or withdraw the relevant share  
8 of allowances allocated to a covered entity under this section in the  
9 event that the covered entity ceases production in the state and  
10 becomes a closed facility. In the event an entity curtails all  
11 production and becomes a curtailed facility, the allowances are  
12 retained but cannot be traded, sold, or transferred and are still  
13 subject to the emission reduction requirements specified in this  
14 section. An owner or operator of a curtailed facility may transfer  
15 the allowances to a new operator of the facility that will be  
16 operated under the same North American industry classification system  
17 codes. If the curtailed facility becomes a closed facility, then all  
18 unused allowances will be transferred to the emissions containment  
19 reserve. A curtailed facility is not eligible to receive free  
20 allowances during a period of curtailment. Any allowances withheld or  
21 withdrawn under this subsection must be transferred to the emissions  
22 containment reserve.

23 NEW SECTION. **Sec. 14.** ALLOCATION OF ALLOWANCES TO ELECTRIC  
24 UTILITIES. (1) The legislature intends by this section to allow all  
25 consumer-owned electric utilities and investor-owned electric  
26 utilities subject to the requirements of chapter 19.405 RCW, the  
27 Washington clean energy transformation act, to be allocated  
28 allowances at no cost as provided in this section in order to  
29 mitigate the cost burden of the program on electric customers.

30 (2) (a) By October 1, 2022, the department shall adopt rules, in  
31 consultation with the department of commerce and the utilities and  
32 transportation commission, establishing the methods and procedures  
33 for allocating allowances to consumer-owned and investor-owned  
34 electric utilities. Rules adopted under this section must allow for a  
35 consumer-owned or investor-owned electric utility to be provided  
36 allowances at no cost to cover their emissions and decline  
37 proportionally with the cap, consistent with section 9 of this act.  
38 The rules must take into account the cost burden of the program on  
39 electric customers. Allowances allocated at no cost to consumer-owned

1 and investor-owned electric utilities must be consigned to auction  
2 for the benefit of ratepayers consistent with subsection (3) of this  
3 section, deposited for compliance, or a combination of both. The  
4 rules adopted by the department pursuant to this section must include  
5 provisions directing revenues generated under this subsection to the  
6 applicable utilities. Utilities may use allowances for compliance  
7 equal to their covered emissions in any calendar year they were not  
8 subject to potential penalty under RCW 19.405.090. Under no  
9 circumstances may utilities receive any free allowances after 2045.

10 (b) By October 1, 2022, the department shall adopt by rule an  
11 allocation schedule, in consultation with the department of commerce  
12 and the utilities and transportation commission, for the first  
13 compliance period for the provision of allowances for the benefit of  
14 ratepayers at no cost to consumer-owned and investor-owned electric  
15 utilities. This allocation must be consistent with a forecast, that  
16 is approved by the appropriate governing board or the utilities and  
17 transportation commission, of each utility's supply and demand, and  
18 the cost burden resulting from the inclusion of the covered entities  
19 in the first compliance period.

20 (c) By October 1, 2026, the department shall adopt by rule an  
21 allocation schedule, in consultation with the department of commerce  
22 and the utilities and transportation commission, for the second  
23 compliance period for the provision of allowances for the benefit of  
24 ratepayers at no cost to consumer-owned and investor-owned electric  
25 utilities. This allocation must be consistent with a forecast, that  
26 is approved by the appropriate governing board or the utilities and  
27 transportation commission, of each utility's supply and demand, and  
28 the cost burden resulting from the inclusion of covered entities in  
29 the second compliance period.

30 (d) By October 1, 2028, the department shall adopt by rule an  
31 allocation schedule, in consultation with the department of commerce  
32 and the utilities and transportation commission, for the provision of  
33 allowances at no cost to consumer-owned and investor-owned electric  
34 utilities for the compliance periods contained within calendar years  
35 2031 through 2045. This allocation must be consistent with a  
36 forecast, that is approved by the appropriate governing board or the  
37 utilities and transportation commission, of each utility's supply and  
38 demand, and the cost burden resulting from the inclusion of the  
39 covered entities in the compliance periods.

1 (3) (a) During the first compliance period, 25 percent of the  
2 allowances allocated at no cost to consumer-owned and investor-owned  
3 electric utilities must be consigned to auction for the benefit of  
4 ratepayers, including at a minimum eliminating any additional cost  
5 burden to low-income customers from the implementation of this  
6 chapter. Rules adopted under this subsection must increase the  
7 percentage of allowances consigned to auction by 25 percent each  
8 subsequent compliance period until a total of 100 percent is reached.

9 (b) Revenues from allowances sold at auction must be returned by  
10 providing nonvolumetric credits on ratepayer utility bills,  
11 prioritizing low-income customers, or used to minimize cost impacts  
12 on low-income, residential, and small business customers through  
13 actions that include, but are not limited to, weatherization,  
14 conservation and efficiency services, and bill assistance. The  
15 customer benefits provided from allowances consigned to auction under  
16 this section must be in addition to existing requirements in statute,  
17 rule, or other legal requirements.

18 (4) If an entity is identified by the department as an emissions-  
19 intensive, trade-exposed industry under section 13 of this act,  
20 unless allowances have been otherwise allocated for electricity-  
21 related emissions to the entity under section 13 of this act or to a  
22 consumer-owned utility under this section, the department shall  
23 allocate allowances at no cost to the electric utility or power  
24 marketing administration that is providing electricity to the entity  
25 in an amount equal to the forecasted emissions for electricity  
26 consumption for the entity for the compliance period.

27 (5) The department shall allow for allowances to be transferred  
28 between a power marketing administration and electric utilities and  
29 used for direct compliance.

30 (6) Rules establishing the allocation of allowances to consumer-  
31 owned utilities and investor-owned utilities must consider the impact  
32 of electrification of buildings, transportation, and industry on the  
33 electricity sector.

34 (7) Nothing in this section affects the requirements of chapter  
35 19.405 RCW.

36 NEW SECTION. **Sec. 15.** ALLOCATION OF ALLOWANCES TO NATURAL GAS  
37 UTILITIES. (1) For the benefit of ratepayers, allowances must be  
38 allocated at no cost to covered entities that are natural gas  
39 utilities.

1 (a) By October 1, 2022, the department shall adopt rules, in  
2 consultation with the utilities and transportation commission,  
3 establishing the methods and procedures for allocating allowances to  
4 natural gas utilities. Rules adopted under this subsection must allow  
5 for a natural gas utility to be provided allowances at no cost to  
6 cover their emissions and decline proportionally with the cap,  
7 consistent with section 9 of this act. Allowances allocated at no  
8 cost to natural gas utilities must be consigned to auction for the  
9 benefit of ratepayers consistent with subsection (2) of this section,  
10 deposited for compliance, or a combination of both. The rules adopted  
11 by the department pursuant to this section must include provisions  
12 directing revenues generated under this subsection to the applicable  
13 utilities.

14 (b) By October 1, 2022, the department shall adopt an allocation  
15 schedule by rule, in consultation with the utilities and  
16 transportation commission, for the first two compliance periods for  
17 the provision of allowances for the benefit of ratepayers at no cost  
18 to natural gas utilities.

19 (c) By October 1, 2028, the department shall adopt an allocation  
20 schedule by rule, in consultation with the utilities and  
21 transportation commission, for the provision of allowances for the  
22 benefit of ratepayers at no cost to natural gas utilities for the  
23 compliance periods contained within calendar years 2031 through 2040.

24 (2)(a) Beginning in 2023, 65 percent of the no cost allowances  
25 must be consigned to auction for the benefit of customers, including  
26 at a minimum eliminating any additional cost burden to low-income  
27 customers from the implementation of this chapter. Rules adopted  
28 under this subsection must increase the percentage of allowances  
29 consigned to auction by five percent each year until a total of 100  
30 percent is reached.

31 (b) Revenues from allowances sold at auction must be returned by  
32 providing nonvolumetric credits on ratepayer utility bills,  
33 prioritizing low-income customers, or used to minimize cost impacts  
34 on low-income, residential, and small business customers through  
35 actions that include, but are not limited to, weatherization,  
36 decarbonization, conservation and efficiency services, and bill  
37 assistance. The customer benefits provided from allowances consigned  
38 to auction under this section must be in addition to existing  
39 requirements in statute, rule, or other legal requirements.

1 (c) Except for low-income customers, the customer bill credits  
2 under this subsection are reserved exclusively for customers at  
3 locations connected to a natural gas utility's system on the  
4 effective date of this section. Bill credits may not be provided to  
5 customers of the gas utility at a location connected to the system  
6 after the effective date of this section.

7 (3) In order to qualify for no cost allowances, covered entities  
8 that are natural gas utilities must provide copies of their  
9 greenhouse gas emissions reports filed with the United States  
10 environmental protection agency under 40 C.F.R. Part 98 subpart NN -  
11 suppliers of natural gas and natural gas liquids for calendar years  
12 2015 through 2021 to the department on or before March 31, 2022. The  
13 copies of the reports must be provided in electronic form to the  
14 department, in a manner prescribed by the department. The reports  
15 must be complete and contain all information required by 40 C.F.R.  
16 Sec. 98.406 including, but not limited to, information on large end-  
17 users served by the natural gas utility. For any year where a natural  
18 gas utility was not required to file this report with the United  
19 States environmental protection agency, a report may be submitted in  
20 a manner prescribed by the department containing all of the  
21 information required in the subpart NN report.

22 (4) To continue receiving no cost allowances, a natural gas  
23 utility must provide to the department the United States  
24 environmental protection agency subpart NN greenhouse gas emissions  
25 report for each reporting year in the manner and by the dates  
26 provided by RCW 70A.15.2200(5) as part of the greenhouse gas  
27 reporting requirements of this chapter.

28 NEW SECTION. **Sec. 16.** EMISSIONS CONTAINMENT RESERVE  
29 WITHHOLDING. (1) To help ensure that the price of allowances remains  
30 sufficient to incentivize reductions in greenhouse gas emissions, the  
31 department must establish an emissions containment reserve and set an  
32 emissions containment reserve trigger price by rule. The price must  
33 be set at a reasonable amount above the auction floor price and equal  
34 to the level established in jurisdictions with which the department  
35 has entered into a linkage agreement. In the event that a  
36 jurisdiction with which the department has entered into a linkage  
37 agreement has no emissions containment trigger price, the department  
38 shall suspend the trigger price under this subsection. The purpose of

1 withholding allowances in the emissions containment reserve is to  
2 secure additional emissions reductions.

3 (2) In the event that the emissions containment reserve trigger  
4 price is met during an auction, the department must automatically  
5 withhold allowances as needed. The department must convert and  
6 transfer any allowances that have been withheld from auction into the  
7 emissions containment reserve account.

8 (3) Emissions containment reserve allowances may only be withheld  
9 from an auction if the demand for allowances would result in an  
10 auction clearing price that is less than the emissions containment  
11 reserve trigger price prior to the withholding from the auction of  
12 any emissions containment reserve allowances.

13 (4) The department shall transfer allowances to the emissions  
14 containment reserve in the following situations:

15 (a) No less than two percent of the total number of allowances  
16 available from the allowance budgets for calendar years 2023 through  
17 2026;

18 (b) When allowances are unsold in auctions under section 12 of  
19 this act;

20 (c) When facilities curtail or close consistent with section  
21 13(6) of this act; or

22 (d) When facilities fall below the emissions threshold. The  
23 amount of allowances withdrawn from the program budget must be  
24 proportionate to the amount of emissions such a facility was  
25 previously using.

26 (5)(a) Allowances must be distributed from the emissions  
27 containment reserve by auction when new covered and opt-in entities  
28 enter the program.

29 (b) Allowances equal to the greenhouse gas emissions resulting  
30 from a new or expanded emissions-intensive, trade-exposed facility  
31 with emissions in excess of 25,000 metric tons per year during the  
32 first applicable compliance period will be provided to the facility  
33 from the reserve created in this section and must be retired by the  
34 facility. In subsequent compliance periods, the facility will be  
35 subject to the regulatory cap and related requirements under this  
36 chapter.

37 NEW SECTION. **Sec. 17.** ALLOWANCE PRICE CONTAINMENT. (1) To help  
38 minimize allowance price volatility in the auction, the department  
39 shall adopt by rule an auction floor price and a schedule for the

1 floor price to increase by a predetermined amount every year. The  
2 department may not sell allowances at bids lower than the auction  
3 floor price. The department's rules must specify holding limits that  
4 determine the maximum number of allowances that may be held for use  
5 or trade by a registered entity at any one time. The department shall  
6 also establish an auction ceiling price to limit extraordinary prices  
7 and to determine when to offer allowances through the allowance price  
8 containment reserve auctions authorized under this section.

9 (2) For calendar years 2023 through 2026, the department must  
10 place no less than two percent of the total number of allowances  
11 available from the allowance budgets for those years in an allowance  
12 price containment reserve. The reserve must be designed as a  
13 mechanism to assist in containing compliance costs for covered and  
14 opt-in entities in the event of unanticipated high costs for  
15 compliance instruments.

16 (3) (a) The department shall adopt rules for holding auctions of  
17 allowances from the price containment reserve when the settlement  
18 prices in the preceding auction approach the adopted auction ceiling  
19 price. The auction must be separate from auctions of other  
20 allowances.

21 (b) Allowances must also be distributed from the allowance price  
22 containment reserve by auction when new covered and opt-in entities  
23 enter the program and allowances in the emissions containment reserve  
24 under section 16 of this act are exhausted.

25 (4) Only covered and opt-in entities may participate in the  
26 auction of allowances from the allowance price containment reserve.

27 (5) The process for reserve auctions is the same as the process  
28 provided in section 12 of this act and the proceeds from reserve  
29 auctions must be treated the same.

30 (6) The department shall by rule:

31 (a) Set the reserve auction floor price in advance of the reserve  
32 auction. The department may choose to establish multiple price tiers  
33 for the allowances from the reserve;

34 (b) Establish the requirements and schedule for the allowance  
35 price containment reserve auctions; and

36 (c) Establish the amount of allowances to be placed in the  
37 allowance price containment reserve after the first compliance period  
38 ending in 2026.

1        NEW SECTION.    **Sec. 18.**    PRICE CONTAINMENT. (1) The department  
2 shall establish a price ceiling to provide cost protection for  
3 facilities obligated to comply with this chapter. The ceiling must be  
4 set at a level sufficient to facilitate investments to achieve  
5 further emission reductions beyond those enabled by the price  
6 ceiling, with the intent that investments accelerate the state's  
7 achievement of greenhouse gas limits established under RCW  
8 70A.45.020. The price ceiling must increase annually in proportion to  
9 the price floor.

10        (2) In the event that no allowances remain in the allowance price  
11 containment reserve, the department must issue the number of price  
12 ceiling units for sale sufficient to provide cost protection for  
13 facilities as established under subsection (1) of this section.  
14 Purchases must be limited to entities that do not have sufficient  
15 eligible compliance instruments in their holding and compliance  
16 accounts for the next compliance period and these entities may only  
17 purchase what they need to meet their compliance obligation for the  
18 current compliance period. Price ceiling units may not be sold or  
19 transferred and must be retired for compliance in the current  
20 compliance period. A price ceiling unit is not a property right.

21        (3) Funds raised in connection with the sale of price ceiling  
22 units must be expended to achieve emissions reductions on at least a  
23 metric ton for metric ton basis that are real, permanent,  
24 quantifiable, verifiable, enforceable by the state, and in addition  
25 to any greenhouse gas emission reduction otherwise required by law or  
26 regulation and any other greenhouse gas emission reduction that  
27 otherwise would occur.

28        NEW SECTION.    **Sec. 19.**    OFFSETS. (1) The department shall adopt  
29 by rule the protocols for establishing offset projects and securing  
30 offset credits that may be used to meet a portion of a covered or  
31 opt-in entity's compliance obligation under section 21 of this act.  
32 The protocols adopted by the department under this section must align  
33 with the policies of the state established under RCW 70A.45.090 and  
34 70A.45.100.

35        (2) Offset projects must:

36        (a) Provide direct environmental benefits to the state or be  
37 located in a jurisdiction with which Washington has entered into a  
38 linkage agreement;

39        (b) Result in greenhouse gas reductions or removals that:

1 (i) Are real, permanent, quantifiable, verifiable, and  
2 enforceable; and

3 (ii) Are in addition to greenhouse gas emission reductions or  
4 removals otherwise required by law and other greenhouse gas emission  
5 reductions or removals that would otherwise occur; and

6 (c) Have been certified by a recognized registry after the  
7 effective date of this section or within two years prior to the  
8 effective date of this section.

9 (3)(a) A total of no more than five percent of a covered or opt-  
10 in entity's compliance obligation during the first compliance period  
11 may be met by transferring offset credits. During these years, at  
12 least 50 percent of a covered or opt-in entity's compliance  
13 obligation satisfied by offset credits must be sourced from offset  
14 projects that provide direct environmental benefits in the state.

15 (b) A total of no more than four percent of a covered or opt-in  
16 entity's compliance obligation during the second compliance period  
17 may be met by transferring offset credits. During these years, at  
18 least 75 percent of a covered or opt-in entity's compliance  
19 obligation satisfied by offset credits must be sourced from offset  
20 projects that provide direct environmental benefits in the state. The  
21 department may reduce the 75 percent requirement if it determines  
22 there is not sufficient offset supply in the state to meet offset  
23 demand during the second compliance period.

24 (c) The limits in (a) and (b) of this subsection may be modified  
25 by rule as adopted by the department when appropriate to ensure  
26 achievement of the proportionate share of statewide emissions limits  
27 established in RCW 70A.45.020 and to provide for alignment with other  
28 jurisdictions to which the state has linked.

29 (d) The limits in (a) and (b) of this subsection may be reduced  
30 for a specific covered or opt-in entity if the department determines  
31 that the covered or opt-in entity has or is likely to:

32 (i) Contribute substantively to cumulative air pollution burden  
33 in an overburdened community as determined by criteria established by  
34 the department; or

35 (ii) Violate any permits required by any federal, state, or local  
36 air pollution control agency where the violation may result in an  
37 increase in emissions.

38 (e) An offset project on federally recognized tribal land does  
39 not count against the offset credit limits described in (a) and (b)  
40 of this subsection. No more than three percent of a covered or opt-in

1 entity's compliance obligation may be met by transferring offset  
2 credits from projects on federally recognized tribal land during the  
3 first compliance period. No more than two percent of a covered or  
4 opt-in entity's compliance obligation may be met by transferring  
5 offset credits from projects on federally recognized tribal land  
6 during the second compliance period.

7 (4) In adopting protocols governing offset projects and covered  
8 and opt-in entities' use of offset credits, the department shall:

9 (a) Take into consideration standards, rules, or protocols for  
10 offset projects and offset credits established by other states,  
11 provinces, and countries with programs comparable to the program  
12 established in this chapter;

13 (b) Encourage opportunities for the development of offset  
14 projects in this state by adopting offset protocols that may include,  
15 but need not be limited to, protocols that make use of aggregation or  
16 other mechanisms to reduce transaction costs related to the  
17 development of offset projects and that support the development of  
18 carbon dioxide removal projects;

19 (c) Adopt a process for monitoring and invalidating offset  
20 credits as necessary to ensure the credit reflects emission  
21 reductions or removals that continue to meet the standards required  
22 by subsection (1) of this section. If an offset credit is  
23 invalidated, the covered or opt-in entity must, within six months of  
24 the invalidation, transfer replacement credits or allowances to meet  
25 its compliance obligation. Failure to transfer the required credits  
26 or allowances is a violation subject to penalties as provided in  
27 section 22 of this act; and

28 (d) Make use of aggregation or other mechanisms, including cost-  
29 effective inventory and monitoring provisions, to increase the  
30 development of offset and carbon removal projects by landowners  
31 across the broadest possible variety of types and sizes of lands,  
32 including lands owned by small forestland owners.

33 (5) Any offset credits used may not be in addition to or allow  
34 for an increase in the allowance budgets established under section 8  
35 of this act.

36 (6) The offset credit must be registered and tracked as a  
37 compliance instrument.

38 (7) Beginning in 2031, the limits established in subsection (3)  
39 of this section apply unless modified by rule as adopted by the  
40 department after a public consultation process.

1        NEW SECTION.    **Sec. 20.**    ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL  
2 LANDS. (1) In order to ensure that a sufficient number of high  
3 quality offset projects are available under the limits set in section  
4 19 of this act, the department must establish an assistance program  
5 for offset projects on federally recognized tribal lands in  
6 Washington. The assistance may include, but is not limited to,  
7 funding or consultation for federally recognized tribal governments  
8 to assess a project's technical feasibility, investment requirements,  
9 development and operational costs, expected returns, administrative  
10 and legal hurdles, and project risks and pitfalls. The department may  
11 provide funding or assistance upon request by a federally recognized  
12 tribe.

13        (2) It is the intent of the legislature that not less than  
14 \$5,000,000 be provided in the biennial omnibus operating  
15 appropriations act for the purposes of this section.

16        NEW SECTION.    **Sec. 21.**    COMPLIANCE OBLIGATIONS. (1) A covered or  
17 opt-in entity has a compliance obligation for its emissions during  
18 each four-year compliance period, with the first compliance period  
19 commencing January 1, 2023, except when the first compliance period  
20 commences at a later date as provided in subsection (7) of this  
21 section. A covered or opt-in entity shall transfer a number of  
22 compliance instruments equal to the entity's covered emissions by  
23 November 1st of each calendar year in which a covered or opt-in  
24 entity has a compliance obligation. The department shall set by rule  
25 a percentage of compliance instruments that must be transferred in  
26 each year of the compliance period such that covered or opt-in  
27 entities are allowed to smooth their compliance obligation within the  
28 compliance period but must fully satisfy their compliance obligation  
29 over the course of the compliance period, in a manner similar to  
30 external greenhouse gas emissions trading programs in other  
31 jurisdictions.

32        (2) Submission of allowances occurs through the transfer of  
33 compliance instruments, on or before the transfer date, from the  
34 holding account to the compliance account of the covered or opt-in  
35 entity as described in section 10 of this act.

36        (3) A covered or opt-in entity submitting insufficient compliance  
37 instruments to meet its compliance obligation is subject to a penalty  
38 as provided in section 22 of this act.

1 (4) Allowances must be transferred in the order in which they  
2 were purchased or acquired.

3 (5) A covered or opt-in entity may not borrow an allowance from a  
4 future allowance year to meet a current or past compliance  
5 obligation.

6 (6) Upon receipt by the department of all compliance instruments  
7 transferred by a covered entity or opt-in entity to meet its  
8 compliance obligation, the department shall retire the allowances or  
9 offset credits.

10 (7) (a) This section does not take effect until a separate  
11 additive transportation funding is received by the state, at which  
12 time the department of licensing must provide written notice to the  
13 chief clerk of the house of representatives, the secretary of the  
14 senate, and the office of the code reviser.

15 (b) For the purposes of this subsection, "additive transportation  
16 funding" means receipt of funding by the state in which the combined  
17 total of new revenues deposited into the motor vehicle fund and  
18 multimodal transportation account exceed \$500,000,000 in any biennium  
19 attributable solely to separate additive transportation funding.

20 NEW SECTION. **Sec. 22.** ENFORCEMENT. (1) All covered and opt-in  
21 entities are required to submit compliance instruments in a timely  
22 manner to meet the entities' compliance obligations and shall comply  
23 with all requirements for monitoring, reporting, holding, and  
24 transferring emission allowances and other provisions of this  
25 chapter.

26 (2) If a covered or opt-in entity does not submit sufficient  
27 compliance instruments to meet its compliance obligation by the  
28 specified transfer dates, a penalty of four allowances for every one  
29 compliance instrument that is missing must be submitted to the  
30 department within six months. When a covered entity or opt-in entity  
31 reasonably believes that it will be unable to meet a compliance  
32 obligation, the entity shall immediately notify the department. Upon  
33 receiving notification, the department shall issue an order requiring  
34 the entity to submit the penalty allowances.

35 (3) If a covered entity or opt-in entity fails to submit penalty  
36 allowances as required by subsection (2) of this section, the  
37 department must issue an order or issue a penalty of up to \$10,000  
38 per day per violation, or both, for failure to submit penalty

1 allowances as required by subsection (2) of the section. The order  
2 may include a plan and schedule for coming into compliance.

3 (4) The department may issue a penalty of up to \$50,000 per day  
4 per violation for violations of section 12(8) (a) through (e) of this  
5 act.

6 (5) Except as provided in subsections (3) and (4) of this  
7 section, any person that violates the terms of this chapter or an  
8 order issued under this chapter incurs a penalty of up to \$10,000 per  
9 day per violation for each day that the person does not comply. All  
10 penalties under subsections (3) and (4) of this section and this  
11 subsection must be deposited into the climate investment account  
12 created in section 27 of this act.

13 (6) Orders and penalties issued under this chapter are appealable  
14 to the pollution control hearings board under chapter 43.21B RCW.

15 (7) For the first compliance period, the department may reduce  
16 the amount of the penalty by adjusting the monetary amount or the  
17 number of penalty allowances described in subsections (2) and (3) of  
18 this section.

19 (8)(a) No city, town, county, township, or other subdivision or  
20 municipal corporation of the state may implement a charge or tax  
21 based exclusively upon the quantity of greenhouse gas emissions.

22 (b) No state agency may adopt or enforce a program that regulates  
23 greenhouse gas emissions from a stationary source except as provided  
24 in this chapter.

25 NEW SECTION. **Sec. 23.** LINKAGE WITH OTHER JURISDICTIONS. (1)  
26 Subject to making the findings and conducting the public comment  
27 process described in subsection (3) of this section, the department  
28 shall seek to enter into linkage agreements with other jurisdictions  
29 with external greenhouse gas emissions trading programs in order to:

30 (a) Allow for the mutual use and recognition of compliance  
31 instruments issued by Washington and other linked jurisdictions;

32 (b) Broaden the greenhouse gas emission reduction opportunities  
33 to reduce the costs of compliance on covered entities and consumers;

34 (c) Enable allowance auctions to be held jointly and provide for  
35 the use of a unified tracking system for compliance instruments;

36 (d) Enhance market security;

37 (e) Reduce program administration costs; and

38 (f) Provide consistent requirements for covered entities whose  
39 operations span jurisdictional boundaries.

1 (2) The director of the department is authorized to execute  
2 linkage agreements with other jurisdictions with established external  
3 greenhouse gas emissions trading programs consistent with the  
4 requirements in this chapter. A linkage agreement must cover the  
5 following:

6 (a) Provisions relating to regular, periodic auctions, including  
7 requirements for eligibility for auction participation, the use of a  
8 single auction provider to facilitate joint auctions, publication of  
9 auction-related information, processes for auction participation,  
10 purchase limits by auction participant type, bidding processes, dates  
11 of auctions, and financial requirements;

12 (b) Provisions related to holding limits to ensure no entities in  
13 any of the programs are disadvantaged relative to their counterparts  
14 in the other jurisdictions;

15 (c) Other requirements, such as greenhouse gas reporting and  
16 verification, offset protocols, criteria and process, and supervision  
17 and enforcement, to prevent fraud, abuse, and market manipulation;

18 (d) Common program registry, electronic auction platform,  
19 tracking systems for compliance instruments, and monitoring of  
20 compliance instruments;

21 (e) Provisions to ensure coordinated administrative and technical  
22 support;

23 (f) Provisions for public notice and participation; and

24 (g) Provisions to collectively resolve differences, amend the  
25 agreements, and delink or otherwise withdraw from the agreements.

26 (3) Before entering into a linkage agreement under this section,  
27 the department must establish a finding that the linking jurisdiction  
28 and the linkage agreement meet certain criteria identified under this  
29 subsection and conduct a public comment process to obtain input and a  
30 review of the linkage agreement by relevant stakeholders and other  
31 interested parties. The department must consider input received from  
32 the public comment process before finalizing a linkage agreement. In  
33 the event that the department determines that a full linkage  
34 agreement is unlikely to meet the criteria, it may enter into a  
35 linkage agreement with limitations, including limits on the share of  
36 compliance that may be met with allowances originating from linked  
37 jurisdictions and other limitations deemed necessary by the  
38 department. A linkage agreement approved by the department must:

39 (a) Achieve the purposes identified in subsection (1) of this  
40 section;

1 (b) Ensure that the linking jurisdiction has provisions to ensure  
2 the distribution of benefits from the program to vulnerable  
3 populations and overburdened communities;

4 (c) Be determined by the department to not yield net adverse  
5 impacts to either jurisdictions' highly impacted communities or  
6 analogous communities in the aggregate, relative to the baseline  
7 level of emissions; and

8 (d) Not adversely impact Washington's ability to achieve the  
9 emission reduction limits established in RCW 70A.45.020.

10 (4) The state retains all legal and policymaking authority over  
11 its program design and enforcement.

12 NEW SECTION. **Sec. 24.** RULES. The department shall adopt rules  
13 to implement the provisions of the program established in sections 8  
14 through 23 of this act. The department may adopt emergency rules  
15 pursuant to RCW 34.05.350 for initial implementation of the program,  
16 to implement the state omnibus appropriations act for the 2021-2023  
17 fiscal biennium, and to ensure that reporting and other program  
18 requirements are determined early for the purpose of program design  
19 and early notice to registered entities with a compliance obligation  
20 under the program.

21 NEW SECTION. **Sec. 25.** EXPENDITURE TARGETS. (1) It is the intent  
22 of the legislature that each year the total investments made through  
23 the carbon emissions reduction account created in section 26 of this  
24 act, the climate commitment account created in section 28 of this  
25 act, and the natural climate solutions account created in section 29  
26 of this act achieve the following:

27 (a) A minimum of not less than 35 percent and a goal of 40  
28 percent of total investments that provide direct and meaningful  
29 benefits to vulnerable populations within the boundaries of  
30 overburdened communities identified under chapter . . ., Laws of 2021  
31 (Engrossed Second Substitute Senate Bill No. 5141); and

32 (b) At least 10 percent of the total investments authorized under  
33 this chapter must be used for programs, activities, or projects  
34 formally supported by a resolution of an Indian tribe, with priority  
35 given to otherwise qualifying projects directly administered or  
36 proposed by an Indian tribe. An investment that meets the  
37 requirements of both this subsection (1)(b) and (a) of this

1 subsection may count toward the requisite minimum percentage for both  
2 subsections.

3 (2) The expenditure of moneys under this chapter must be  
4 consistent with applicable federal, state, and local laws, and treaty  
5 rights including, but not limited to, prohibitions on uses of funds  
6 imposed by the state Constitution.

7 (3) For the purposes of this section, "benefits" means  
8 investments or activities that:

9 (a) Reduce vulnerable population characteristics, environmental  
10 burdens, or associated risks that contribute significantly to the  
11 cumulative impact designation of highly impacted communities;

12 (b) Meaningfully protect an overburdened community from, or  
13 support community response to, the impacts of air pollution or  
14 climate change; or

15 (c) Meet a community need identified by vulnerable members of the  
16 community that is consistent with the intent of this chapter.

17 NEW SECTION. **Sec. 26.** CARBON EMISSIONS REDUCTION ACCOUNT. The  
18 carbon emissions reduction account is created in the state treasury.  
19 Moneys in the account may be spent only after appropriation.  
20 Expenditures from the account are intended to affect reductions in  
21 transportation sector carbon emissions through a variety of carbon  
22 reducing investments. They can include, but are not limited to:  
23 Transportation alternatives to single occupancy passenger vehicles;  
24 reductions in single occupancy passenger vehicle miles traveled;  
25 reductions in per mile emissions in vehicles, including through the  
26 funding of alternative fuel infrastructure and incentive programs;  
27 and emission reduction programs for freight transportation, including  
28 motor vehicles and rail, as well as for ferries and other maritime  
29 and port activities. Expenditures from the account may only be made  
30 for transportation carbon emission reducing purposes and may not be  
31 made for highway purposes authorized under the 18th Amendment of the  
32 Washington state Constitution. It is the legislature's intent that  
33 expenditures from the account used to reduce carbon emissions be made  
34 with the goal of achieving equity for communities that historically  
35 have been omitted or adversely impacted by past transportation  
36 policies and practices.

37 NEW SECTION. **Sec. 27.** CLIMATE INVESTMENT ACCOUNT. (1)(a) The  
38 climate investment account is created in the state treasury. Except

1 as otherwise provided in this act, all receipts from the auction of  
2 allowances authorized in this chapter must be deposited into the  
3 account. Moneys in the account may be spent only after appropriation.

4 (b) Projects or activities funded from the account must meet high  
5 labor standards, including family sustaining wages, providing  
6 benefits including health care and pensions, career development  
7 opportunities, and maximize access to economic benefits from such  
8 projects for local workers and diverse businesses. Each contracting  
9 entity's proposal must be reviewed for equity and opportunity  
10 improvement efforts, including: (i) Employer paid sick leave  
11 programs; (ii) pay practices in relation to living wage indicators  
12 such as the federal poverty level; (iii) efforts to evaluate pay  
13 equity based on gender identity, race, and other protected status  
14 under Washington law; (iv) facilitating career development  
15 opportunities, such as apprenticeship programs, internships, job-  
16 shadowing, and on-the-job training; and (v) employment assistance and  
17 employment barriers for justice affected individuals.

18 (2) Moneys in the account may be used only for projects and  
19 programs that achieve the purposes of the greenhouse gas emissions  
20 cap and invest program established under this chapter. Moneys in the  
21 account as described in this subsection must first be appropriated  
22 for the administration of the requirements of this chapter, in an  
23 amount not to exceed five percent of the total receipt of funds  
24 deposited in the account per biennium. Beginning July 1, 2024, and  
25 annually thereafter, the state treasurer shall distribute funds in  
26 the account as follows:

27 (a) Seventy-five percent of the moneys to the climate commitment  
28 account created in section 28 of this act; and

29 (b) Twenty-five percent of the moneys to the natural climate  
30 solutions account created in section 29 of this act.

31 (3) The allocations specified in subsection (2)(a) and (b) of  
32 this section must be reviewed by the legislature on a biennial basis  
33 based on the changing needs of the state in meeting its clean economy  
34 and greenhouse gas reduction goals in a timely, economically  
35 advantageous, and equitable manner.

36 NEW SECTION. **Sec. 28.** CLIMATE COMMITMENT ACCOUNT. (1) The  
37 climate commitment account is created in the state treasury. The  
38 account must receive moneys distributed to the account from the  
39 climate investment account created in section 27 of this act. Moneys

1 in the account may be spent only after appropriation. Projects,  
2 activities, and programs eligible for funding from the account must  
3 be physically located in Washington state and include, but are not  
4 limited to, the following:

5 (a) Implementing the working families tax rebate in RCW  
6 82.08.0206;

7 (b) Supplementing the growth management planning and  
8 environmental review fund established in RCW 36.70A.490 for the  
9 purpose of making grants or loans to local governments for the  
10 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and  
11 36.70A.600, for costs associated with RCW 36.70A.610, and to cover  
12 costs associated with the adoption of optional elements of  
13 comprehensive plans consistent with RCW 43.21C.420;

14 (c) Programs, activities, or projects that reduce and mitigate  
15 impacts from greenhouse gases and copollutants in overburdened  
16 communities, including strengthening the air quality monitoring  
17 network to measure, track, and better understand air pollution levels  
18 and trends and to inform the analysis, monitoring, and pollution  
19 reduction measures required in section 3 of this act;

20 (d) Programs, activities, or projects that deploy renewable  
21 energy resources, such as solar and wind power, and projects to  
22 deploy distributed generation, energy storage, demand-side  
23 technologies and strategies, and other grid modernization projects;

24 (e) Programs, activities, or projects that increase the energy  
25 efficiency or reduce greenhouse gas emissions of industrial  
26 facilities including, but not limited to, proposals to implement  
27 combined heat and power, district energy, or on-site renewables, such  
28 as solar and wind power, to upgrade the energy efficiency of existing  
29 equipment, to reduce process emissions, and to switch to less  
30 emissions intensive fuel sources;

31 (f) Programs, activities, or projects that achieve energy  
32 efficiency or emissions reductions in the agricultural sector  
33 including fertilizer management, soil management, bioenergy, and  
34 biofuels;

35 (g) Programs, activities, or projects that increase energy  
36 efficiency in new and existing buildings, or that promote low-carbon  
37 architecture, including use of newly emerging alternative building  
38 materials that result in a lower carbon footprint in the built  
39 environment over the life cycle of the building and component  
40 building materials;

1 (h) Programs, activities, or projects that promote the  
2 electrification and decarbonization of new and existing buildings,  
3 including residential, commercial, and industrial buildings;

4 (i) Programs, activities, or projects that improve energy  
5 efficiency, including district energy, and investments in market  
6 transformation of high efficiency electric appliances and equipment  
7 for space and water heating;

8 (j) Clean energy transition and assistance programs, activities,  
9 or projects that assist affected workers or people with lower incomes  
10 during the transition to a clean energy economy, or grow and expand  
11 clean manufacturing capacity in communities across Washington state  
12 including, but not limited to:

13 (i) Programs, activities, or projects that directly improve  
14 energy affordability and reduce the energy burden of people with  
15 lower incomes, as well as the higher transportation fuel burden of  
16 rural residents, such as bill assistance, energy efficiency, and  
17 weatherization programs;

18 (ii) Community renewable energy projects that allow qualifying  
19 participants to own or receive the benefits of those projects at  
20 reduced or no cost;

21 (iii) Programs, activities, or other worker-support projects for  
22 bargaining unit and nonsupervisory fossil fuel workers who are  
23 affected by the transition away from fossil fuels to a clean energy  
24 economy. Worker support may include, but is not limited to: (A) Full  
25 wage replacement, health benefits, and pension contributions for  
26 every worker within five years of retirement; (B) full wage  
27 replacement, health benefits, and pension contributions for every  
28 worker with at least one year of service for each year of service up  
29 to five years of service; (C) wage insurance for up to five years for  
30 workers reemployed who have more than five years of service; (D) up  
31 to two years of retraining costs, including tuition and related  
32 costs, based on in-state community and technical college costs; (E)  
33 peer counseling services during transition; (F) employment placement  
34 services, prioritizing employment in the clean energy sector; and (G)  
35 relocation expenses;

36 (iv) Direct investment in workforce development, via technical  
37 education, community college, apprenticeships, and other programs;

38 (v) Transportation, municipal service delivery, and technology  
39 investments that increase a community's capacity for clean  
40 manufacturing, with an emphasis on communities in greatest need of

1 job creation and economic development and potential for commute  
2 reduction;

3 (k) Programs, activities, or projects that reduce emissions from  
4 landfills and waste-to-energy facilities through diversion of organic  
5 materials, methane capture or conversion strategies, or other means;

6 (l) Carbon dioxide removal projects, programs, and activities;  
7 and

8 (m) Activities to support efforts to mitigate and adapt to the  
9 effects of climate change affecting Indian tribes, including capital  
10 investments in support of the relocation of Indian tribes located in  
11 areas at heightened risk due to anticipated sea level rise, flooding,  
12 or other disturbances caused by climate change. The legislature  
13 intends to dedicate at least \$50,000,000 per biennium from the  
14 account for purposes of this subsection.

15 (2) Moneys in the account may not be used for projects or  
16 activities that would violate tribal treaty rights or result in  
17 significant long-term damage to critical habitat or ecological  
18 functions. Investments from this account must result in long-term  
19 environmental benefits and increased resilience to the impacts of  
20 climate change.

21 NEW SECTION. **Sec. 29.** NATURAL CLIMATE SOLUTIONS ACCOUNT. (1)  
22 The natural climate solutions account is created in the state  
23 treasury. All moneys directed to the account from the climate  
24 investment account created in section 27 of this act must be  
25 deposited in the account. Moneys in the account may be spent only  
26 after appropriation. Moneys in the account are intended to increase  
27 the resilience of the state's waters, forests, and other vital  
28 ecosystems to the impacts of climate change, conserve working  
29 forestlands at risk of conversion, and increase their carbon  
30 pollution reduction capacity through sequestration, storage, and  
31 overall system integrity. Moneys in the account must be spent in a  
32 manner that is consistent with existing and future assessments of  
33 climate risks and resilience from the scientific community and  
34 expressed concerns of and impacts to overburdened communities.

35 (2) Moneys in the account may be allocated for the following  
36 purposes:

37 (a) Clean water investments that improve resilience from climate  
38 impacts. Funding under this subsection (2)(a) must be used to:

1 (i) Restore and protect estuaries, fisheries, and marine  
2 shoreline habitats and prepare for sea level rise including, but not  
3 limited to, making fish passage correction investments such as those  
4 identified in the cost-share barrier removal program for small  
5 forestland owners created in RCW 76.13.150 and those that are  
6 considered by the fish passage barrier removal board created in RCW  
7 77.95.160;

8 (ii) Increase carbon storage in the ocean or aquatic and coastal  
9 ecosystems;

10 (iii) Increase the ability to remediate and adapt to the impacts  
11 of ocean acidification;

12 (iv) Reduce flood risk and restore natural floodplain ecological  
13 function;

14 (v) Increase the sustainable supply of water and improve aquatic  
15 habitat, including groundwater mapping and modeling;

16 (vi) Improve infrastructure treating stormwater from previously  
17 developed areas within an urban growth boundary designated under  
18 chapter 36.70A RCW, with a preference given to projects that use  
19 green stormwater infrastructure;

20 (vii) Either preserve or increase, or both, carbon sequestration  
21 and storage benefits in forests, forested wetlands, agricultural  
22 soils, tidally influenced agricultural or grazing lands, or  
23 freshwater, saltwater, or brackish aquatic lands; or

24 (viii) Either preserve or establish, or both, carbon  
25 sequestration by protecting or planting trees in marine shorelines  
26 and freshwater riparian areas sufficient to promote climate  
27 resilience, protect cold water fisheries, and achieve water quality  
28 standards;

29 (b) Healthy forest investments to improve resilience from climate  
30 impacts. Funding under this subsection (2)(b) must be used for  
31 projects and activities that will:

32 (i) Increase forest and community resilience to wildfire in the  
33 face of increased seasonal temperatures and drought;

34 (ii) Improve forest health and reduce vulnerability to changes in  
35 hydrology, insect infestation, and other impacts of climate change;  
36 or

37 (iii) Prevent emissions by preserving natural and working lands  
38 from the threat of conversion to development or loss of critical  
39 habitat, through actions that include, but are not limited to, the  
40 creation of new conservation lands, community forests, or increased

1 support to small forestland owners through assistance programs  
2 including, but not limited to, the forest riparian easement program  
3 and the family forest fish passage program.

4 (3) Moneys in the account may not be used for projects that would  
5 violate tribal treaty rights or result in significant long-term  
6 damage to critical habitat or ecological functions. Investments from  
7 this account must result in long-term environmental benefits and  
8 increased resilience to the impacts of climate change.

9 **Sec. 30.** RCW 70A.15.2200 and 2020 c 20 s 1090 are each amended  
10 to read as follows:

11 (1) The board of any activated authority or the department, may  
12 classify air contaminant sources, by ordinance, resolution, rule or  
13 regulation, which in its judgment may cause or contribute to air  
14 pollution, according to levels and types of emissions and other  
15 characteristics which cause or contribute to air pollution, and may  
16 require registration or reporting or both for any such class or  
17 classes. Classifications made pursuant to this section may be for  
18 application to the area of jurisdiction of such authority, or the  
19 state as a whole or to any designated area within the jurisdiction,  
20 and shall be made with special reference to effects on health,  
21 economic and social factors, and physical effects on property.

22 (2) Except as provided in subsection (3) of this section, any  
23 person operating or responsible for the operation of air contaminant  
24 sources of any class for which the ordinances, resolutions, rules or  
25 regulations of the department or board of the authority, require  
26 registration or reporting shall register therewith and make reports  
27 containing information as may be required by such department or board  
28 concerning location, size and height of contaminant outlets,  
29 processes employed, nature of the contaminant emission and such other  
30 information as is relevant to air pollution and available or  
31 reasonably capable of being assembled. In the case of emissions of  
32 greenhouse gases as defined in RCW 70A.45.010 the department shall  
33 adopt rules requiring reporting of those emissions. The department or  
34 board may require that such registration or reporting be accompanied  
35 by a fee, and may determine the amount of such fee for such class or  
36 classes: PROVIDED, That the amount of the fee shall only be to  
37 compensate for the costs of administering such registration or  
38 reporting program which shall be defined as initial registration and  
39 annual or other periodic reports from the source owner providing

1 information directly related to air pollution registration, on-site  
2 inspections necessary to verify compliance with registration  
3 requirements, data storage and retrieval systems necessary for  
4 support of the registration program, emission inventory reports and  
5 emission reduction credits computed from information provided by  
6 sources pursuant to registration program requirements, staff review,  
7 including engineering or other reliable analysis for accuracy and  
8 currentness, of information provided by sources pursuant to  
9 registration program requirements, clerical and other office support  
10 provided in direct furtherance of the registration program, and  
11 administrative support provided in directly carrying out the  
12 registration program: PROVIDED FURTHER, That any such registration  
13 made with either the board or the department shall preclude a further  
14 registration and reporting with any other board or the department,  
15 except that emissions of greenhouse gases as defined in RCW  
16 70A.45.010 must be reported as required under subsection (5) of this  
17 section.

18 All registration program and reporting fees collected by the  
19 department shall be deposited in the air pollution control account.  
20 All registration program fees collected by the local air authorities  
21 shall be deposited in their respective treasuries.

22 (3) If a registration or report has been filed for a grain  
23 warehouse or grain elevator as required under this section,  
24 registration, reporting, or a registration program fee shall not,  
25 after January 1, 1997, again be required under this section for the  
26 warehouse or elevator unless the capacity of the warehouse or  
27 elevator as listed as part of the license issued for the facility has  
28 been increased since the date the registration or reporting was last  
29 made. If the capacity of the warehouse or elevator listed as part of  
30 the license is increased, any registration or reporting required for  
31 the warehouse or elevator under this section must be made by the date  
32 the warehouse or elevator receives grain from the first harvest  
33 season that occurs after the increase in its capacity is listed in  
34 the license.

35 This subsection does not apply to a grain warehouse or grain  
36 elevator if the warehouse or elevator handles more than ten million  
37 bushels of grain annually.

38 (4) For the purposes of subsection (3) of this section:

39 (a) A "grain warehouse" or "grain elevator" is an establishment  
40 classified in standard industrial classification (SIC) code 5153 for

1 wholesale trade for which a license is required and includes, but is  
2 not limited to, such a licensed facility that also conducts cleaning  
3 operations for grain;

4 (b) A "license" is a license issued by the department of  
5 agriculture licensing a facility as a grain warehouse or grain  
6 elevator under chapter 22.09 RCW or a license issued by the federal  
7 government licensing a facility as a grain warehouse or grain  
8 elevator for purposes similar to those of licensure for the facility  
9 under chapter 22.09 RCW; and

10 (c) "Grain" means a grain or a pulse.

11 (5)(a) The department shall adopt rules requiring persons to  
12 report emissions of greenhouse gases as defined in RCW 70A.45.010  
13 where those emissions from a single facility, ~~((source, or site,))~~ or  
14 from electricity or fossil fuels sold in Washington by a single  
15 supplier or local distribution company, meet or exceed ten thousand  
16 metric tons of carbon dioxide equivalent annually. ~~The ((department~~  
17 ~~may phase in the requirement to report greenhouse gas emissions until~~  
18 ~~the reporting threshold in this subsection is met, which must occur~~  
19 ~~by January 1, 2012)) rules adopted by the department must support~~  
20 implementation of the program created in section 8 of this act. In  
21 addition, the rules must require that:

22 (i) Emissions of greenhouse gases resulting from the combustion  
23 of fossil fuels be reported separately from emissions of greenhouse  
24 gases resulting from the combustion of biomass; and

25 (ii) ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each  
26 annual report must include emissions data for the preceding calendar  
27 year and must be submitted to the department by ~~((October))~~ March  
28 31st of the year in which the report is due. ~~((However, starting in~~  
29 ~~2011, a person who is required to report greenhouse gas emissions to~~  
30 ~~the United States environmental protection agency under 40 C.F.R.~~  
31 ~~Part 98, as adopted on September 22, 2009, must submit the report~~  
32 ~~required under this section to the department concurrent with the~~  
33 ~~submission to the United States environmental protection agency.~~  
34 ~~Except as otherwise provided in this section, the data for emissions~~  
35 ~~in Washington and any corrections thereto that are reported to the~~  
36 ~~United States environmental protection agency must be the emissions~~  
37 ~~data reported to the department; and~~

38 ~~(iii) Emissions of carbon dioxide associated with the complete~~  
39 ~~combustion or oxidation of liquid motor vehicle fuel, special fuel,~~  
40 ~~or aircraft fuel that is sold in Washington where the annual~~

1 emissions associated with that combustion or oxidation equal or  
2 exceed ten thousand metric tons be reported to the department. Each  
3 person who is required to file periodic tax reports of motor vehicle  
4 fuel sales under RCW 82.36.031 or special fuel sales under RCW  
5 82.38.150, or each distributor of aircraft fuel required to file  
6 periodic tax reports under RCW 82.42.040 must report to the  
7 department the annual emissions of carbon dioxide from the complete  
8 combustion or oxidation of the fuels listed in those reports as sold  
9 in the state of Washington. The department shall not require  
10 suppliers to use additional data to calculate greenhouse gas  
11 emissions other than the data the suppliers report to the department  
12 of licensing. The rules may allow this information to be aggregated  
13 when reported to the department. The department and the department of  
14 licensing shall enter into an interagency agreement to ensure  
15 proprietary and confidential information is protected if the  
16 departments share reported information. Any proprietary or  
17 confidential information exempt from disclosure when reported to the  
18 department of licensing is exempt from disclosure when shared by the  
19 department of licensing with the department under this provision.)

20 (b) (i) ((Except as otherwise provided in this subsection, the  
21 rules adopted by the department under (a) of this subsection must be  
22 consistent with the regulations adopted by the United States  
23 environmental protection agency in 40 C.F.R. Part 98 on September 22,  
24 2009.

25 ~~(ii))~~) The department may by rule include additional gases to the  
26 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has  
27 been designated as a greenhouse gas by the United States congress  
28 ~~((or)),~~ by the United States environmental protection agency, or  
29 included in external greenhouse gas emission trading programs with  
30 which Washington has pursuant to section 23 of this act. Prior to  
31 including additional gases to the definition of "greenhouse gas" in  
32 RCW 70A.45.010, the department shall notify the appropriate  
33 committees of the legislature. ~~((Decisions to amend the rule to~~  
34 ~~include additional gases must be made prior to December 1st of any~~  
35 ~~year and the amended rule may not take effect before the end of the~~  
36 ~~regular legislative session in the next year.~~

37 ~~(iii))~~) (ii) The department may by rule exempt persons who are  
38 required to report greenhouse gas emissions to the United States  
39 environmental protection agency and who emit less than ten thousand  
40 metric tons carbon dioxide equivalent annually.

1       (~~(iv)~~) (iii) The department must establish a methodology for  
2 persons who are not required to report under this section to  
3 voluntarily report their greenhouse gas emissions.

4       (c) (i) The department shall review and if necessary update its  
5 rules whenever (~~the~~):

6       (A) The United States environmental protection agency adopts  
7 final amendments to 40 C.F.R. Part 98 to ensure consistency with  
8 federal reporting requirements for emissions of greenhouse gases; or

9       (B) Needed to ensure consistency with emissions reporting  
10 requirements for jurisdictions with which Washington has entered a  
11 linkage agreement. (~~However, the~~)

12       (ii) The department shall not amend its rules in a manner that  
13 conflicts with (~~(a) of~~) this (~~(subsection)~~) section.

14       (d) The department shall share any reporting information reported  
15 to it with the local air authority in which the person reporting  
16 under the rules adopted by the department operates.

17       (e) The fee provisions in subsection (2) of this section apply to  
18 reporting of emissions of greenhouse gases. Persons required to  
19 report under (a) of this subsection who fail to report or pay the fee  
20 required in subsection (2) of this section are subject to enforcement  
21 penalties under this chapter. The department shall enforce the  
22 reporting rule requirements (~~(unless it approves a local air~~  
23 ~~authority's request to enforce the requirements for persons operating~~  
24 ~~within the authority's jurisdiction. However, neither the department~~  
25 ~~nor a local air authority approved under this section are authorized~~  
26 ~~to assess enforcement penalties on persons required to report under~~  
27 ~~(a) of this subsection until six months after the department adopts~~  
28 ~~its reporting rule in 2010)). When a person that holds a compliance  
29 obligation under section 10 of this act fails to submit an emissions  
30 data report or fails to obtain a positive emissions data verification  
31 statement in accordance with (g)(ii) of this subsection, the  
32 department may assign an emissions level for that person.~~

33       (f) The energy facility site evaluation council shall,  
34 simultaneously with the department, adopt rules that impose  
35 greenhouse gas reporting requirements in site certifications on  
36 owners or operators of a facility permitted by the energy facility  
37 site evaluation council. The greenhouse gas reporting requirements  
38 imposed by the energy facility site evaluation council must be the  
39 same as the greenhouse gas reporting requirements imposed by the  
40 department. The department shall share any information reported to it

1 from facilities permitted by the energy facility site evaluation  
2 council with the council, including notice of a facility that has  
3 failed to report as required. The energy facility site evaluation  
4 council shall contract with the department to monitor the reporting  
5 requirements adopted under this section.

6 (g) (i) ~~The ((inclusion or failure to include any person, source,~~  
7 ~~classes of persons or sources, or types of emissions of greenhouse~~  
8 ~~gases into the department's rules for reporting under this section~~  
9 ~~does not indicate whether such a person, source, or category is~~  
10 ~~appropriate for inclusion in state, regional, or national greenhouse~~  
11 ~~gas reduction programs or strategies. Furthermore, aircraft fuel~~  
12 ~~purchased in the state may not be considered equivalent to aircraft~~  
13 ~~fuel combusted in the state)) department must establish by rule the~~  
14 ~~methods of verifying the accuracy of emissions reports.~~

15 (ii) Verification requirements apply at a minimum to persons  
16 required to report under (a) of this subsection with emissions that  
17 equal or exceed 25,000 metric tons of carbon dioxide equivalent  
18 emissions, including carbon dioxide from biomass-derived fuels, or to  
19 persons who have a compliance obligation under section 10 of this act  
20 in any year of the current compliance period. The department may  
21 adopt rules to accept verification reports from another jurisdiction  
22 with a linkage agreement pursuant to section 20 of this act in cases  
23 where the department deems that the methods or procedures are  
24 substantively similar.

25 (h) (i) The definitions in RCW 70A.45.010 apply throughout this  
26 subsection (5) unless the context clearly requires otherwise.

27 (ii) For the purpose of this subsection (5), the term "supplier"  
28 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~  
29 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~  
30 ~~fuel supplier or a special fuel importer, as those terms are defined~~  
31 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~  
32 ~~terms are defined in RCW 82.42.010)) Suppliers that produce, import,~~  
33 ~~or deliver, or any combination of producing, importing, or~~  
34 ~~delivering, a quantity of fuel products in Washington that, if~~  
35 ~~completely combusted, oxidized, or used in other processes, would~~  
36 ~~result in the release of greenhouse gases equivalent to or higher~~  
37 ~~than the threshold established under (a) of this subsection; and (B)~~  
38 ~~suppliers of carbon dioxide that produce, import, or deliver a~~  
39 ~~quantity of carbon dioxide in Washington that, if released, would~~

1 result in emissions equivalent to or higher than the threshold  
2 established under (a) of this subsection.

3 (iii) For the purpose of this subsection (5), the term "person"  
4 includes: (A) An owner or operator(~~(, as those terms are defined by~~  
5 ~~the United States environmental protection agency in its mandatory~~  
6 ~~greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted~~  
7 ~~on September 22, 2009; and (B) a supplier)) of a facility; (B) a  
8 supplier; or (C) an electric power entity.~~

9 (iv) For the purpose of this subsection (5), the term "facility"  
10 includes facilities that directly emit greenhouse gases in Washington  
11 equivalent to the threshold established under (a) of this subsection  
12 with at least one source category listed in the United States  
13 environmental protection agency's mandatory greenhouse gas reporting  
14 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through  
15 UU, as adopted on April 25, 2011.

16 (v) For the purpose of this subsection (5), the term "electric  
17 power entity" includes any of the following that supply electric  
18 power in Washington with associated emissions of greenhouse gases  
19 equal to or above the threshold established under (a) of this  
20 subsection: (A) Electricity importers and exporters; (B) retail  
21 providers, including multijurisdictional retail providers; and (C)  
22 first jurisdictional deliverers, as defined in section 2 of this act,  
23 not otherwise included here.

24 NEW SECTION. Sec. 31. This act may be known and cited as the  
25 Washington climate commitment act.

26 NEW SECTION. Sec. 32. Sections 1 through 29 and 31 of this act  
27 constitute a new chapter in Title 70A RCW.

28 NEW SECTION. Sec. 33. (1) Sections 8 through 23 of this act,  
29 and any rules adopted by the department of ecology to implement the  
30 program established under those sections, are suspended on December  
31 31, 2055, in the event that the department of ecology determines by  
32 December 1, 2055, that the 2050 emissions limits of RCW 70A.45.020  
33 have been met for two or more consecutive years.

34 (2) Upon the occurrence of the events identified in subsection  
35 (1) of this section, the department of ecology must provide written  
36 notice of the suspension date of sections 8 through 23 of this act to  
37 affected parties, the chief clerk of the house of representatives,

1 the secretary of the senate, the office of the code reviser, and  
2 others as deemed appropriate by the department.

3 **Sec. 34.** RCW 43.376.020 and 2012 c 122 s 2 are each amended to  
4 read as follows:

5 In establishing a government-to-government relationship with  
6 Indian tribes, state agencies must:

7 (1) Make reasonable efforts to collaborate with Indian tribes in  
8 the development of policies, agreements, and program implementation  
9 that directly affect Indian tribes and develop a consultation process  
10 that is used by the agency for issues involving specific Indian  
11 tribes. State agencies described in section 6 of this act must offer  
12 consultation with Indian tribes on the actions specified in section 6  
13 of this act;

14 (2) Designate a tribal liaison who reports directly to the head  
15 of the state agency;

16 (3) Ensure that tribal liaisons who interact with Indian tribes  
17 and the executive directors of state agencies receive training as  
18 described in RCW 43.376.040; and

19 (4) Submit an annual report to the governor on activities of the  
20 state agency involving Indian tribes and on implementation of this  
21 chapter.

22 **Sec. 35.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035  
23 are each reenacted and amended to read as follows:

24 (1) The hearings board shall only have jurisdiction to hear and  
25 decide appeals from the following decisions of the department, the  
26 director, local conservation districts, the air pollution control  
27 boards or authorities as established pursuant to chapter 70A.15 RCW,  
28 local health departments, the department of natural resources, the  
29 department of fish and wildlife, the parks and recreation commission,  
30 and authorized public entities described in chapter 79.100 RCW:

31 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
32 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
33 70A.515.060, section 22 of this act, 76.09.170, 77.55.440, 78.44.250,  
34 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and  
35 90.64.102.

36 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
37 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,

1 section 22 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
2 90.48.120, and 90.56.330.

3 (c) Except as provided in RCW 90.03.210(2), the issuance,  
4 modification, or termination of any permit, certificate, or license  
5 by the department or any air authority in the exercise of its  
6 jurisdiction, including the issuance or termination of a waste  
7 disposal permit, the denial of an application for a waste disposal  
8 permit, the modification of the conditions or the terms of a waste  
9 disposal permit, or a decision to approve or deny an application for  
10 a solid waste permit exemption under RCW 70A.205.260.

11 (d) Decisions of local health departments regarding the grant or  
12 denial of solid waste permits pursuant to chapter 70A.205 RCW.

13 (e) Decisions of local health departments regarding the issuance  
14 and enforcement of permits to use or dispose of biosolids under RCW  
15 70A.226.090.

16 (f) Decisions of the department regarding waste-derived  
17 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
18 decisions of the department regarding waste-derived soil amendments  
19 under RCW 70A.205.145.

20 (g) Decisions of local conservation districts related to the  
21 denial of approval or denial of certification of a dairy nutrient  
22 management plan; conditions contained in a plan; application of any  
23 dairy nutrient management practices, standards, methods, and  
24 technologies to a particular dairy farm; and failure to adhere to the  
25 plan review and approval timelines in RCW 90.64.026.

26 (h) Any other decision by the department or an air authority  
27 which pursuant to law must be decided as an adjudicative proceeding  
28 under chapter 34.05 RCW.

29 (i) Decisions of the department of natural resources, the  
30 department of fish and wildlife, and the department that are  
31 reviewable under chapter 76.09 RCW, and the department of natural  
32 resources' appeals of county, city, or town objections under RCW  
33 76.09.050(7).

34 (j) Forest health hazard orders issued by the commissioner of  
35 public lands under RCW 76.06.180.

36 (k) Decisions of the department of fish and wildlife to issue,  
37 deny, condition, or modify a hydraulic project approval permit under  
38 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
39 comply, to issue a civil penalty, or to issue a notice of intent to  
40 disapprove applications.

1 (1) Decisions of the department of natural resources that are  
2 reviewable under RCW 78.44.270.

3 (m) Decisions of an authorized public entity under RCW 79.100.010  
4 to take temporary possession or custody of a vessel or to contest the  
5 amount of reimbursement owed that are reviewable by the hearings  
6 board under RCW 79.100.120.

7 (2) The following hearings shall not be conducted by the hearings  
8 board:

9 (a) Hearings required by law to be conducted by the shorelines  
10 hearings board pursuant to chapter 90.58 RCW.

11 (b) Hearings conducted by the department pursuant to RCW  
12 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
13 70A.15.3110, and 90.44.180.

14 (c) Appeals of decisions by the department under RCW 90.03.110  
15 and 90.44.220.

16 (d) Hearings conducted by the department to adopt, modify, or  
17 repeal rules.

18 (3) Review of rules and regulations adopted by the hearings board  
19 shall be subject to review in accordance with the provisions of the  
20 administrative procedure act, chapter 34.05 RCW.

21 **Sec. 36.** RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to  
22 read as follows:

23 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
24 70A.205.280, 70A.300.090, 70A.20.050, section 22 of this act,  
25 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and  
26 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in  
27 writing, either by certified mail with return receipt requested or by  
28 personal service, to the person incurring the penalty from the  
29 department or the local air authority, describing the violation with  
30 reasonable particularity. For penalties issued by local air  
31 authorities, within thirty days after the notice is received, the  
32 person incurring the penalty may apply in writing to the authority  
33 for the remission or mitigation of the penalty. Upon receipt of the  
34 application, the authority may remit or mitigate the penalty upon  
35 whatever terms the authority in its discretion deems proper. The  
36 authority may ascertain the facts regarding all such applications in  
37 such reasonable manner and under such rules as it may deem proper and  
38 shall remit or mitigate the penalty only upon a demonstration of

1 extraordinary circumstances such as the presence of information or  
2 factors not considered in setting the original penalty.

3 (2) Any penalty imposed under this section may be appealed to the  
4 pollution control hearings board in accordance with this chapter if  
5 the appeal is filed with the hearings board and served on the  
6 department or authority thirty days after the date of receipt by the  
7 person penalized of the notice imposing the penalty or thirty days  
8 after the date of receipt of the notice of disposition by a local air  
9 authority of the application for relief from penalty.

10 (3) A penalty shall become due and payable on the later of:

11 (a) Thirty days after receipt of the notice imposing the penalty;

12 (b) Thirty days after receipt of the notice of disposition by a  
13 local air authority on application for relief from penalty, if such  
14 an application is made; or

15 (c) Thirty days after receipt of the notice of decision of the  
16 hearings board if the penalty is appealed.

17 (4) If the amount of any penalty is not paid to the department  
18 within thirty days after it becomes due and payable, the attorney  
19 general, upon request of the department, shall bring an action in the  
20 name of the state of Washington in the superior court of Thurston  
21 county, or of any county in which the violator does business, to  
22 recover the penalty. If the amount of the penalty is not paid to the  
23 authority within thirty days after it becomes due and payable, the  
24 authority may bring an action to recover the penalty in the superior  
25 court of the county of the authority's main office or of any county  
26 in which the violator does business. In these actions, the procedures  
27 and rules of evidence shall be the same as in an ordinary civil  
28 action.

29 (5) All penalties recovered shall be paid into the state treasury  
30 and credited to the general fund except those penalties imposed  
31 pursuant to RCW 18.104.155, which shall be credited to the  
32 reclamation account as provided in RCW 18.104.155(7), RCW  
33 70A.15.3160, the disposition of which shall be governed by that  
34 provision, RCW 70A.300.090, which shall be credited to the model  
35 toxics control operating account created in RCW 70A.305.180, section  
36 22 of this act, which shall be credited to the climate investment  
37 account created in section 27 of this act, RCW 90.56.330, which shall  
38 be credited to the coastal protection fund created by RCW 90.48.390,  
39 and RCW 70A.355.070, which shall be credited to the underground  
40 storage tank account created by RCW 70A.355.090.

1        NEW SECTION.    **Sec. 37.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected."

5        Correct the title.

EFFECT: The striking amendment does the following:

Makes technical changes, including conforming amendments.

Adds imported electricity to the list of covered emissions sources under the first compliance period of the Cap and Invest Program.

Aligns environmental justice provisions with those of the Washington HEAL Act.

Replaces references to the Forward Flexible Account for transportation expenditures with the new Carbon Emissions Reduction Account.

Creates two subaccounts within the Climate Investment Account: the Climate Commitment Account and the Natural Climate Solutions Account.

Directs 75 percent of the funds deposited into the Climate Investment Account into the Climate Commitment Account and 25 percent into the Natural Climate Solutions Account.

Identifies the individual retail electric cooperatives served by a multijurisdictional consumer-owned utility as the covered entity under the Cap and Trade Program.

Adds a voluntary renewable reserve account maintained by the Department of Ecology from which allowances may be retired for voluntary renewable electricity generation.

Requires that a project or activity funded in whole or in part from the Climate Investment Account be paused or ceased in the event that an affected federally recognized Indian tribe or the Department of Archaeology and Historic Preservation provides timely notice of a determination to the Department of Ecology that the project will adversely impact cultural resources, archaeological sites, or sacred sites.

Adds a new section requiring the Governor to establish a governance structure to implement the state's climate commitment to provide accountability for achieving the state's greenhouse gas emissions reduction limits, establish a coordinated and strategic statewide approach to climate resilience, build an equitable and inclusive clean energy economy, and ensure that the government provides clear policy and requirements, financial tools, and other mechanisms to support achieving those limits.

Requires consumer-owned and investor-owned electric utilities receiving allowances at no cost from the Department of Ecology to consign a portion of those allowances to auction for the benefit of ratepayers each compliance period.

Requires that allowances consigned to auction for the benefit of ratepayers by electric utilities eliminate any additional cost burden to low-income customers from the implementation of the Cap and Invest Program.

Requires that revenues from allowances sold at auction be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers

through actions such as weatherization, conservation and efficiency services, and bill assistance.

Requires the Department of Ecology to, in adopting offset protocols, make use of aggregation or other mechanisms to increase the development of offset and carbon removal projects by landowners, including small forest landowners.

Adds environmental justice expenditure targets for the total investments made through the Carbon Emissions Reduction Account, the Climate Commitment Account, and the Natural Climate Solutions Account.

Removes the section requiring the Climate Investment Account to be included in the legislature's four-year balanced budget requirements.

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